

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

Passed the Senate on April 26, 2017: Yeas 31, Nays 0; passed the House on May 24, 2017: Yeas 146, Nays 0, two present not voting.

Approved June 15, 2017.

Effective June 15, 2017.

**NONSUBSTANTIVE REVISION OF THE TEXAS RACING ACT,
INCLUDING CONFORMING AMENDMENTS**

CHAPTER 963

S.B. No. 1969

AN ACT

relating to the nonsubstantive revision of the Texas Racing Act, including conforming amendments.

Be it enacted by the Legislature of the State of Texas:

ARTICLE 1. NONSUBSTANTIVE REVISION OF THE TEXAS RACING ACT

SECTION 1.01. Title 13, Occupations Code, is amended by adding Subtitle A-1 to read as follows:

SUBTITLE A-1. TEXAS RACING ACT

CHAPTER 201. GENERAL PROVISIONS

CHAPTER 202. TEXAS RACING COMMISSION

CHAPTER 203. COMMISSION AND RACE MEETING OFFICIAL POWERS AND DUTIES

CHAPTER 204. POWERS AND DUTIES OF COMPTROLLER

CHAPTER 205. LICENSING

CHAPTER 206. RACETRACK OPERATION AND PREMISES

CHAPTER 207. WAGERING

CHAPTER 208. PARI-MUTUEL POOLS, PURSES, AND FEES

CHAPTER 209. ALLOCATION OF RACING DAYS

CHAPTER 2030. TEXAS-BRED HORSES AND GREYHOUNDS

CHAPTER 2031. TEXAS DERBIES

CHAPTER 2032. LIVESTOCK SHOWS, EXHIBITS, AND FAIRS

CHAPTER 2033. CRIMINAL AND ADMINISTRATIVE PENALTIES; DISCIPLINARY POWERS

CHAPTER 2034. UNLAWFUL INFLUENCE ON RACING

CHAPTER 2035. LOCAL OPTION ELECTION TO LEGALIZE PARI-MUTUEL WAGERING

SUBTITLE A-1. TEXAS RACING ACT

CHAPTER 201. GENERAL PROVISIONS

Sec. 201.001. SHORT TITLE

Sec. 201.002. PURPOSE

Sec. 2021.003. GENERAL DEFINITIONS

Sec. 2021.004. DEFINITIONS USED IN ADMINISTERING THIS SUBTITLE

Sec. 2021.005. PRECEDENCE OF SUIT UNDER TITLE

Sec. 2021.006. RELEASE OF CIVIL LIABILITY

Sec. 2021.007. FEE OR PAYMENT IN LIEU OF OTHER STATE TAXES AND FEES

Sec. 2021.008. SUNSET PROVISION

CHAPTER 2021. GENERAL PROVISIONS

Sec. 2021.001. SHORT TITLE. This subtitle may be cited as the Texas Racing Act. (V.A.C.S. Art. 179e, Sec. 1.01.)

Sec. 2021.002. PURPOSE. The purpose of this subtitle is to provide for the strict regulation of horse racing and greyhound racing and the control of pari-mutuel wagering in connection with that racing. (V.A.C.S. Art. 179e, Sec. 1.02.)

Sec. 2021.003. GENERAL DEFINITIONS. In this subtitle:

(1) "Accredited Texas-bred horse" means a Texas-bred horse that meets the accreditation requirements of the state horse breed registry for that breed of horse.

(2) "Active license" means a racetrack license designated by the commission as active.

(3) "Appaloosa horse" means a horse that is registered by the Appaloosa Horse Club.

(4) "Applicant" means a person with a legal, equitable, or beneficial interest in a license application.

(5) "Arabian horse" means a horse that is registered by the Arabian Horse Association or by the Canadian Arabian Horse Registry.

(6) "Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of 10 cents, except in a minus pool, in which the breakage must be in multiples of five cents.

(7) "Child" means an individual younger than 16 years of age.

(8) "Commission" means the Texas Racing Commission.

(9) "Concessionaire" means a person licensed by the commission to sell refreshments or souvenirs at a racetrack.

(10) "Contraband" means:

(A) an item the possession of which is unlawful under this subtitle, a commission rule, or other law;

(B) an item that might reasonably have the effect of unnaturally depressing, stimulating, or exciting an animal during a race in a manner contrary to this subtitle or a commission rule, including a prohibited device or prohibited substance; or

(C) a document, including a credential or forged ticket, possessed or used by an individual in violation of this subtitle or a commission rule.

(11) "Credential" means any document indicating authority or permission under this subtitle, including a license, certificate, and identification card.

(12) "Cross-species simulcast signal" means a simulcast signal of a horse race at a greyhound racetrack or a simulcast signal of a greyhound race at a horse racetrack.

(13) "Enclosure" means all areas of a racetrack association's grounds, including the parking area, to which admission is ordinarily obtained only on payment of an admission fee or presentation of an official credential.

(14) "Executive director" means the executive director of the commission.

(15) "Greyhound" means a purebred greyhound dog registered by the National Greyhound Association.

(16) "Greyhound racing" means any race in which two or more greyhounds engage in a contest of speed or endurance or pursue a mechanical lure.

(17) "Greyhound racing day" means a day on which a racetrack association conducts greyhound racing. "One racing day" means a period beginning at noon and ending at 2 a.m. the next calendar day, other than a day on which a matinee performance is conducted.

(18) "Horse race meeting" means the conducting of horse races on a day or during a period of consecutive or nonconsecutive days.

(19) "Horse racing day" means the 24-hour period ending at 12 midnight.

(20) "Horsemen's organization" means an organization recognized by the commission that:

(A) represents horse owners and trainers in negotiating and contracting with racetrack associations on subjects relating to racing; and

(B) represents and advocates the interests of horse owners and trainers before administrative, legislative, and judicial forums.

(21) "Inactive license" means a racetrack license designated by the commission as inactive.

(22) "Judge" means a racing official with general authority and supervision over:

(A) the conduct of a greyhound race meeting; and

(B) all license holders at a racetrack during a greyhound race meeting.

(23) "Live pari-mutuel pool" means the total amount of money wagered by patrons on the result of a particular live race or combination of live races within the enclosure of the racetrack association where the race is being run.

(24) "Maiden" means a horse that has never won a race at a race meeting authorized by the commission or by another racing jurisdiction.

(25) "Matinee performance" means any performance starting between 10 a.m. and 5 p.m. on a day other than Sunday.

(26) "Minor" means an individual younger than 21 years of age.

(27) "Multiple wagering" means wagering on two or more animals in one race or on one or more animals in more than one race. "Multiple two wagering" means wagering on two animals in one or more races. "Multiple three wagering" means wagering on three or more animals in one or more races.

(28) "National historic district" means a district included in or eligible for inclusion in the National Register of Historic Places under 54 U.S.C. Section 302101 et seq.

(29) "Nonprofit corporation" means a nonprofit corporation governed by Chapter 22, Business Organizations Code, that:

(A) does not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services;

(B) has a governing body or officers elected by a vote of members or by a vote of delegates elected by the members; and

(C) has obtained an exemption under Section 501 of the Internal Revenue Code of 1986.

(30) "Outstanding ticket" means a pari-mutuel ticket not presented for payment before the end of the horse racing day or greyhound racing day for which the ticket was purchased.

(31) "Paint horse" means a horse that is registered by the American Paint Horse Association.

(32) "Pari-mutuel pool" means the total amount of money wagered by patrons on the result of a particular race or combination of races, divided into separate mutuel pools for win, place, show, or combinations.

(33) "Pari-mutuel voucher" means a bearer instrument, issued by a pari-mutuel wagering machine, that represents money owned by a wagering patron and held by a racetrack association, including winnings from a pari-mutuel wager.

(34) "Pari-mutuel wagering" means the form of wagering on the outcome of horse racing or greyhound racing in which persons who wager purchase tickets of various denominations on an animal or animals and all wagers for each race are pooled and held by the racetrack association for distribution of the total amount, less the deductions authorized by this subtitle, to holders of tickets on the winning animals.

(35) "Performance" means the consecutive running of a specified number of greyhound races as determined by the commission.

(36) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property.

(37) "Prohibited device" means:

(A) a spur or an electrical or other device prohibited by a commission rule regulating the unlawful influence of a race; or

(B) a device specifically designed, made, or adapted to influence or affect the outcome of a race in a manner contrary to this subtitle or a commission rule.

(38) "Prohibited substance" means a drug, chemical, or other substance that:

(A) in use or in intended use, is reasonably capable of influencing or affecting the outcome of a race in a manner contrary to this subtitle or a commission rule; and

(B) is prohibited by a commission rule regulating the unlawful influence of a race.

(39) "Quarter horse" means a horse that is registered by the American Quarter Horse Association.

(40) "Race" includes a live audio and visual signal of a race.

(41) "Racetrack" means a facility licensed under this subtitle for the conduct of pari-mutuel wagering on horse racing or greyhound racing.

(42) "Racetrack association" means a person licensed under this subtitle to conduct a horse race meeting or a greyhound race meeting with pari-mutuel wagering.

(43) "Receiving location" means a racetrack association in this state that has been allocated live and simulcast race dates or a facility not located in this state that is authorized to conduct wagering under the law of the jurisdiction in which it is located.

(44) "Regular wagering" means wagering on a single horse or greyhound in a single race. The term includes wagering on the win pool, the place pool, or the show pool.

(45) "Sending track" means any licensed track for horse or greyhound racing in this state or another state from which a race is transmitted.

(46) "Simulcast" means the telecast or other transmission of live audio and visual signals of a race, transmitted from a sending track to a receiving location, for the purpose of wagering conducted on the race at the receiving location.

(47) "Simulcast pari-mutuel pool" means the total amount of money wagered by patrons at a racetrack in this state on the result of a particular simulcast race or combination of simulcast races.

(48) "State horse breed registry" means a designated association administering accredited Texas-bred horse requirements for a specific breed of horses.

(49) "Steward" means a racing official with general authority and supervision over:

(A) the conduct of a horse race meeting; and

(B) all license holders at a racetrack during a horse race meeting.

(50) "Texas-bred horse" means a horse qualified under commission rules that is:

(A) sired by a stallion standing in Texas at the time of conception and foaled by a mare in Texas;

(B) foaled by a mare bred outside Texas and brought into Texas to foal at any time in the mare's lifetime if the mare is bred back to a stallion standing in Texas; or

(C) a Thoroughbred or Arabian horse foaled in Texas by an accredited Texas-bred mare if the mare was bred outside Texas and returned to Texas on or before August 15 of the calendar year of conception.

(51) "Thoroughbred horse" means a horse that is registered by the Jockey Club.

(52) "Thoroughbred racing" means the form of horse racing in which Thoroughbred horses mounted by jockeys engage in a race.

(53) "Touting" means an offense described by Section 2033.013 or a similar offense under the laws of another state.

(54) "Trainer" means a person who is licensed by the commission to train horses or greyhounds.

(55) "Veterinarian" means a person licensed under Chapter 801. (V.A.C.S. Art. 179e, Secs. 1.03(1), (2), (3), (6), (7), (8), (9), (11), (13), (15), (17), (18), (19), (20), (21), (22), (24), (25), (26), (35), (36), (42), (43), (45), (46), (47), (48), (50), (51), (52), (53), (54), (57), (59), (60), (61), (62), (63), (64), (65), (66), (68), (69), (70), (71), (72), (73), (74), (75), (76), (77), (78), (79), (80), (81).)

Sec. 2021.004. DEFINITIONS USED IN ADMINISTERING SUBTITLE. For the purpose of administering this subtitle:

(1) "Authorized agent" means a person appointed by an owner of a horse to represent the owner. The term is limited to a person who is appointed by a written instrument that the commission acknowledges and approves.

(2) "Clerk of scales" means a racetrack official who is responsible for weighing a jockey before and after a race.

(3) "Handicapper" means a person who predicts the winner of a horse race.

(4) "Horseshoe inspector" means a racetrack official who inspects the shoes of the horses entered in a race.

(5) "Jockey" or "apprentice jockey" means a professional rider licensed by the commission to ride in horse races.

(6) "Jockey room custodian" means a person who maintains the premises of a room in which jockeys prepare for a race.

(7) "Official starter" means a racetrack official who is in charge of the start of a race.

(8) "Paddock judge" means a racetrack official who supervises animals entered in a race while the animals are assembled before the beginning of a race in an enclosure on the grounds of a racetrack.

(9) "Patrol judge" means a racetrack official who is stationed at a set point along the racetrack to monitor the running of a race.

(10) "Quarter horse racing" means the form of horse racing in which quarter horses mounted by jockeys engage in a race.

(11) "Stable foreman" means the person in charge of the building in which horses are lodged and fed.

(12) "Timer" means a racetrack official who times the running of a race. (V.A.C.S. Art. 179e, Secs. 1.03(10), (27), (28), (30), (31), (32), (34), (37), (38), (39), (40), (41); New.)

Sec. 2021.005. PRECEDENCE OF SUIT UNDER TITLE. A court shall accelerate the disposition of an action brought under this subtitle. (V.A.C.S. Art. 179e, Secs. 16.16, 18.04.)

Sec. 2021.006. RELEASE OF CIVIL LIABILITY. A commission member, a commission employee, a steward or judge, a racetrack association, a horsemen's organization, or any other person regulated under this subtitle is not liable for a cause of action that

arises out of that person's performance or exercise of discretion in the implementation or enforcement of this subtitle or a rule adopted under this subtitle if the person has acted in good faith. (V.A.C.S. Art. 179e, Sec. 18.06.)

Sec. 2021.007. FEE OR PAYMENT IN LIEU OF OTHER STATE TAXES AND FEES.

(a) A fee or payment collected by this state under this subtitle is in lieu of any other fee, payment, or tax imposed by this state.

(b) This section does not preclude the application of:

(1) the sales tax or an increase in the sales tax to the sale or purchase of a taxable item by a person licensed under this subtitle; or

(2) the franchise tax to a person licensed under this subtitle. (V.A.C.S. Art. 179e, Sec. 18.05.)

Sec. 2021.008. SUNSET PROVISION. (a) The commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, and except as provided by Subsections (b) and (c), the commission is abolished and this subtitle expires September 1, 2023.

(b) If, at the time the commission would be abolished under Subsection (a), a racetrack association has outstanding long-term liabilities:

(1) the racetrack association may continue to operate for a period not to exceed one year after those liabilities are satisfied; and

(2) the commission and this subtitle are continued in effect for the purpose of regulating that racetrack association under this subtitle.

(c) If the commission and this subtitle are continued in effect under Subsection (b), the commission is abolished and this subtitle expires on the first day of the state fiscal year following the state fiscal year in which the commission certifies to the secretary of state that no racetrack associations are operating under the terms of Subsection (b).

(d) A racetrack association that continues to operate under Subsection (b) may not incur any new liability without commission approval. At the beginning of that period, the commission shall:

(1) review the outstanding liabilities of the racetrack association; and

(2) set a specific date by which the racetrack association must retire its outstanding liabilities.

(e) Notwithstanding any contrary contract provision, a racetrack association may prepay any debt incurred by the racetrack association in conducting racing under this subtitle. (V.A.C.S. Art. 179e, Sec. 18.01.)

CHAPTER 2022. TEXAS RACING COMMISSION

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CHAPTER 2022. TEXAS RACING COMMISSION

SUBCHAPTER A. COMPOSITION AND OPERATION

Sec. 2022.001. COMMISSION MEMBERSHIP. (a) The commission consists of:

(1) seven members appointed by the governor with the advice and consent of the senate; and

(2) two ex officio members who have the right to vote.

(b) The ex officio members are:

(1) the chair of the Public Safety Commission, or a member of the Public Safety Commission designated by the chair; and

(2) the comptroller or the comptroller's designee.

(c) Of the appointed commission members:

(1) five members must be representatives of the general public and have general knowledge of business or agribusiness;

(2) one additional member must have special knowledge or experience related to horse racing; and

(3) one additional member must have special knowledge or experience related to greyhound racing.

(d) At least one of the members appointed under Subsection (c)(1) may be a veterinarian. Holding a veterinarian's license satisfies the requirement that the person have general knowledge of business or agribusiness.

(e) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(f) In making appointments to the commission, the governor shall attempt to reflect the minority groups found in the state's general populace. (V.A.C.S. Art. 179e, Secs. 2.02,

2.05(a) (part).)

Sec. 2022.002. TERM OF OFFICE. (a) Appointed commission members hold office for staggered terms of six years with the terms of two or three members expiring February 1 of each odd-numbered year.

(b) An ex officio member holds office on the commission for the time the member holds the member's other office. (V.A.C.S. Art. 179e, Secs. 2.03(a) (part), (b).)

Sec. 2022.003. FINANCIAL STATEMENT REQUIRED. (a) Each appointed commission member and the executive director is an "appointed officer of a major state agency" for purposes of Chapter 572, Government Code.

(b) An appointed commission member shall file a detailed financial statement with the secretary of state of the type required by the Texas Department of Banking in the application for a state bank charter. The financial statement is public information under Chapter 552, Government Code. (V.A.C.S. Art. 179e, Sec. 2.06.)

Sec. 2022.004. RESTRICTIONS ON COMMISSION APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a commission member and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of horse or greyhound racing or breeding.

(c) A person may not be a commission member or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

(d) An appointed member is not eligible to serve on the commission unless that member has been a resident of this state for at least 10 consecutive years immediately before appointment.

(e) A person is not eligible for appointment as a commission member if:

(1) the person or the person's spouse:

(A) is licensed by the commission, except as a commissioner;

(B) is employed by the commission or participates in the management of a business entity or other organization regulated by the commission or receiving funds from or through the commission;

(C) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from or through the commission; or

(D) uses or receives a substantial amount of tangible goods, services, or funds from or through the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or

(2) the person:

(A) owns any financial interest in a racetrack or its operation or is related within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, to a person who owns any financial interest in a racetrack or its operation; or

(B) has been convicted of a felony or of any crime involving moral turpitude.

(V.A.C.S. Art. 179e, Secs. 2.04, 2.05(a) (part), (b), (d), 2.071.)

Sec. 2022.005. GROUND FOR REMOVAL. (a) It is a ground for removal from the commission if a member:

- (1) does not have at the time of appointment the qualifications required by Sections 2022.001, 2022.004, and 2022.057;
- (2) does not maintain during service on the commission the qualifications required by Sections 2022.001, 2022.004, and 2022.057;
- (3) violates a prohibition established by Section 2022.004;
- (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or
- (5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest officer of the commission, who shall notify the governor and the attorney general that a potential ground for removal exists. (V.A.C.S. Art. 179e, Sec. 2.073.)

Sec. 2022.006. MEMBER TRAINING. (a) To be eligible to take office as a commission member, a person appointed to the commission must complete at least one course of a training program that complies with this section.

(b) The training program must provide information to the person regarding:

- (1) the enabling legislation that created the commission;
- (2) the programs operated by the commission;
- (3) the role and functions of the commission;
- (4) commission rules, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the commission;
- (6) the results of the most recent formal audit of the commission;
- (7) the requirements of:
 - (A) Chapter 551, Government Code;
 - (B) Chapter 552, Government Code; and
 - (C) Chapter 2001, Government Code;
- (8) the requirements of the conflict of interest laws and other laws relating to public officials; and
- (9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a commission member. (V.A.C.S. Art. 179e, Sec. 2.074.)

Sec. 2022.007. MEMBER PER DIEM AND REIMBURSEMENT FOR EXPENSES.

(a) An appointed commission member is entitled to:

- (1) a per diem in an amount prescribed by legislative appropriation for each day spent in performing the duties of the office; and
- (2) reimbursement for actual and necessary expenses incurred in performing the duties of the office.

(b) Reimbursement for expenses under this section is subject to any applicable limitation in the General Appropriations Act.

(c) An ex officio commission member is entitled to reimbursement for expenses from the member's agency as provided by law for expenses incurred in the performance of the member's other official duties. (V.A.C.S. Art. 179e, Sec. 2.08.)

Sec. 2022.008. **PRESIDING OFFICER.** The governor shall designate a public member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor. (V.A.C.S. Art. 179e, Sec. 2.10.)

Sec. 2022.009. **COMMISSION MEETINGS; RECORD OF COMMISSION VOTES.** (a) The commission shall hold at least six regular meetings each year on dates fixed by the commission.

(b) The commission shall adopt rules providing for the holding of special meetings.

(c) The commission shall keep at the commission's general office a public record of every vote. (V.A.C.S. Art. 179e, Secs. 2.11(a), (c).)

Sec. 2022.010. **COMMISSION OFFICES.** The commission shall maintain a general office of the commission in Austin and may also establish branch offices. (V.A.C.S. Art. 179e, Sec. 2.09.)

Sec. 2022.011. **MONEY PAID TO COMMISSION.** All money paid to the commission under this subtitle is subject to Subchapter F, Chapter 404, Government Code. (V.A.C.S. Art. 179e, Sec. 2.18.)

Sec. 2022.012. **LEGAL REPRESENTATION.** The attorney general shall:

(1) designate at least one member of the attorney general's staff to counsel and advise the commission and to represent the commission in legal proceedings; and

(2) make available to the appropriate prosecuting attorneys any information obtained regarding violations of this subtitle. (V.A.C.S. Art. 179e, Sec. 2.14.)

Sec. 2022.013. **NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.** (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution shall conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures. (V.A.C.S. Art. 179e, Sec. 2.25.)

Sec. 2022.014. **PUBLIC PARTICIPATION.** (a) The commission by rule shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

(b) The executive director shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs and services. (V.A.C.S. Art. 179e, Secs. 2.11(d), 2.22 (part).)

SUBCHAPTER B. COMMISSION STAFF

Sec. 2022.051. **EXECUTIVE DIRECTOR; DUTIES.** (a) The commission shall employ

an executive director. The executive director serves at the pleasure of the commission on a full-time basis and may not hold other employment.

(b) The executive director shall:

- (1) keep the records of the commission; and
- (2) perform other duties required by the commission.

(c) The executive director or the executive director's designee shall provide to commission members and employees, as often as necessary, information regarding their qualification for office or employment under this subtitle and their responsibilities under applicable laws relating to standards of conduct for state officers or employees. (V.A.C.S. Art. 179e, Secs. 2.12(a) (part), 2.13, 2.20.)

Sec. 2022.052. EMPLOYEES; RESTRICTIONS ON EMPLOYMENT. (a) The commission shall hire employees as necessary to administer this subtitle.

(b) The commission shall employ the executive director and other employees to reflect the diversity of the state's population with regard to race, color, disability, sex, religion, age, and national origin.

(c) The commission may not employ or continue to employ a person who:

- (1) owns or controls a financial interest in a commission license holder;
- (2) is employed by or serves as a paid consultant to a commission license holder, an official state breed registry, or a Texas trade association, as defined by Section 2022.004(a), in the field of horse or greyhound racing or breeding;
- (3) owns or leases a race animal that participates in pari-mutuel racing in this state;
- (4) accepts or is entitled to any part of the purse or Texas-bred incentive award to be paid on a horse or a greyhound in a race conducted in this state; or
- (5) resides with or is related within the first degree by affinity or consanguinity to a person subject to a disqualification prescribed by this subsection. (V.A.C.S. Art. 179e, Secs. 2.12(a) (part), (b), (c), (d).)

Sec. 2022.053. COMMISSION INVESTIGATORS. (a) The commission may commission as many investigators as the commission determines necessary to enforce this subtitle and commission rules.

(b) An investigator commissioned under this section shall take the constitutional oath of office and file it with the commission.

(c) An investigator commissioned under this section has the powers of a peace officer. (V.A.C.S. Art. 179e, Sec. 11.01(a-1).)

Sec. 2022.054. CAREER LADDER; PERFORMANCE EVALUATIONS. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the commission. The program shall require intra-agency posting of all positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations based on documented employee performance. All merit pay for commission employees must be based on the system established under this subsection. (V.A.C.S. Art. 179e, Secs. 2.19(a), (b).)

Sec. 2022.055. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

- (1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that comply with the requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the commission workforce that meets federal and state laws, rules, regulations, and instructions directly promulgated from those laws, rules, and regulations;

(3) procedures by which a determination can be made about the extent of underuse in the commission workforce of all persons for whom federal or state laws, rules, regulations, and instructions directly promulgated from those laws, rules, and regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(c) The policy statement must:

(1) cover an annual period and be updated annually;

(2) be reviewed by the Texas Workforce Commission for compliance with Subsection (b)(1); and

(3) be filed with the governor's office. (V.A.C.S. Art. 179e, Secs. 2.19(c), (d).)

Sec. 2022.056. DIVISION OF RESPONSIBILITY. The commission by rule shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and the commission staff. (V.A.C.S. Art. 179e, Sec. 2.21.)

Sec. 2022.057. BACKGROUND CHECKS AND QUALIFICATION CRITERIA. Each person appointed to or employed by the commission is subject to all background checks and qualification criteria required to hold a racetrack license or other license under this subtitle. (V.A.C.S. Art. 179e, Sec. 2.05(c).)

Sec. 2022.058. PROHIBITION ON EMPLOYMENT OF FORMER COMMISSION MEMBERS OR EMPLOYEES BY RACETRACK ASSOCIATION; CRIMINAL PENALTY.

(a) A racetrack association may not employ a person who has been a commission member, the executive director, or a commission employee in a position in the state employment classification plan of grade 12 or above, or a person related within the second degree by affinity or the third degree by consanguinity, as determined under Chapter 573, Government Code, to such a member or employee, during the one-year period immediately preceding the employment by the racetrack association.

(b) A person may not seek or accept employment with a racetrack association if the racetrack association would violate this section by employing the person.

(c) A racetrack association or person who violates this section commits an offense. (V.A.C.S. Art. 179e, Sec. 6.16.)

SUBCHAPTER C. RECORDS AND INFORMATION

Sec. 2022.101. PUBLIC INTEREST INFORMATION. (a) The commission shall prepare information of public interest describing the functions of the commission and the procedures by which complaints are filed with and resolved by the commission.

(b) The commission shall make the information described by Subsection (a) available to the public and appropriate state agencies. (V.A.C.S. Art. 179e, Sec. 2.23(a).)

Sec. 2022.102. INFORMATION RELATING TO COMPLAINT PROCEDURES.

(a) The commission by rule shall establish methods by which racetrack patrons are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide the notification:

(1) on every race performance program provided by each racetrack association; or

(2) on signs prominently displayed in the common public areas on the premises of each racetrack.

(b) The commission shall keep information about each complaint filed with the commission. The information must include:

(1) the date the complaint is received;

(2) the name of the complainant;

- (3) the subject matter of the complaint;
- (4) a record of all persons contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) for complaints for which the commission took no action, an explanation of the reason the complaint was closed without action.

(c) The commission shall keep a file about each written complaint filed with the commission that the commission has authority to resolve. The commission shall provide to the person filing the complaint and to the persons who are subjects of the complaint the commission's policies and procedures pertaining to complaint investigation and resolution.

(d) The commission, at least quarterly and until final disposition of a complaint, shall notify the person filing the complaint and the persons who are subjects of the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation. (V.A.C.S. Art. 179e, Secs. 2.23(b), 2.24.)

Sec. 2022.103. COMMISSION INVESTIGATIVE FILES CONFIDENTIAL. (a) The contents of the investigatory files of the commission are not public records and are confidential except:

- (1) in a criminal proceeding;
- (2) in a hearing conducted by the commission;
- (3) on court order; or
- (4) with the consent of the party being investigated.

(b) Except as otherwise provided by this subtitle, the files, records, information, compilations, documents, photographs, reports, summaries, and reviews of information and related matters that are collected, retained, or compiled by the Department of Public Safety in the discharge of the department's duties under this subtitle are confidential and are not subject to public disclosure, but are subject to discovery by a person who is the subject of the files, records, information, compilations, documents, photographs, reports, summaries, and reviews of information and related matters that are collected, retained, or compiled by the department in the discharge of the department's duties under this subtitle.

(c) An investigation report or other document submitted by the Department of Public Safety to the commission becomes part of the investigative files of the commission and is subject to discovery by a person who is the subject of the investigation report or other document submitted by the department to the commission that is part of the investigative files of the commission.

(d) Information that is in a form available to the public is not privileged or confidential under this section and is subject to public disclosure. (V.A.C.S. Art. 179e, Secs. 2.15(b), 2.16.)

Sec. 2022.104. INTERAGENCY SHARING OF RECORDS. The commission may share with another regulatory agency of this state any investigatory file information that creates a reasonable suspicion of a person's violation of a law or rule under that agency's jurisdiction. The agency may use the information as if it was obtained through that agency's investigatory process. (V.A.C.S. Art. 179e, Sec. 2.15(c).)

Sec. 2022.105. BOOKS AND RECORDS; INSPECTION. (a) The commission shall require racetrack associations, managers, totalisator license holders, and concessionaires to keep books and records and to submit financial statements to the commission.

(b) Except as provided by Section 2024.002(b), the commission shall adopt rules relating to the matters described by Subsection (a). (V.A.C.S. Art. 179e, Sec. 3.04.)

Sec. 2022.106. PUBLIC INSPECTION OF RECORDS. (a) All commission records that are not made confidential by other law are open to inspection by the public during regular office hours.

(b) The commission shall maintain all applications for a license under this subtitle

and make the applications available for public inspection during regular office hours. (V.A.C.S. Art. 179e, Sec. 2.15(a).)

**CHAPTER 2023. COMMISSION AND RACE MEETING OFFICIAL POWERS
AND DUTIES**

**SUBCHAPTER A. REGULATION, SUPERVISION, AND LICENSING RE-
LATING TO HORSE RACING AND GREYHOUND RACING**

- Sec. 2023.001. LICENSING, REGULATION, AND SUPERVISION OF HORSE RACING AND GREYHOUND RACING
- Sec. 2023.002. REGULATION AND SUPERVISION OF WAGERING AT RACE MEETINGS
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- Sec. 2023.051. RECOGNITION OF ORGANIZATION
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- Sec. 2023.101. EMPLOYMENT OF STEWARDS AND JUDGES
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- Sec. 2023.106. RACE MEETING OFFICIAL POWERS AND DUTIES; RULES
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CHAPTER 2023. COMMISSION AND RACE MEETING OFFICIAL POWERS AND DUTIES

SUBCHAPTER A. REGULATION, SUPERVISION, AND LICENSING RELATING TO HORSE RACING AND GREYHOUND RACING

Sec. 2023.001. LICENSING, REGULATION, AND SUPERVISION OF HORSE RACING AND GREYHOUND RACING. (a) Notwithstanding any contrary provision in this subtitle, the commission may license and regulate all aspects of horse racing and greyhound racing in this state, regardless of whether that racing involves pari-mutuel wagering.

(b) The commission, in adopting rules and in the supervision and conduct of racing, shall consider the effect of a proposed commission action on the state's agricultural, horse breeding, horse training, greyhound breeding, and greyhound training industry. (V.A.C.S. Art. 179e, Secs. 3.02(g), 3.021(a).)

Sec. 2023.002. REGULATION AND SUPERVISION OF WAGERING AT RACE MEETINGS. (a) The commission shall regulate and supervise each race meeting in this state that involves wagering on the result of horse racing or greyhound racing. Each person and thing relating to the operation of a race meeting is subject to regulation and supervision by the commission.

(b) The commission shall adopt rules, issue licenses, and take any other necessary action relating exclusively to horse racing or greyhound racing. (V.A.C.S. Art. 179e, Sec. 3.02(a) (part).)

Sec. 2023.003. OTHER LICENSING AND REGULATION: RULES AND FEES. (a) The commission may adopt rules for the licensing and regulation of races and workouts at tracks that do not offer pari-mutuel wagering and for workouts at training facilities to secure past performances and workouts to:

- (1) protect the health, safety, and welfare of race animals and participants in racing;
- (2) safeguard the interest of the general public; and
- (3) promote the orderly conduct of racing in this state.

(b) The commission may charge an annual fee for licensing and regulating a track that does not offer pari-mutuel wagering or a training facility in a reasonable amount that may not exceed the actual cost of enforcing rules adopted for the licensing and regulation of races and workouts at such a facility. (V.A.C.S. Art. 179e, Secs. 3.021(b), (c).)

Sec. 2023.004. COMMISSION RULES. (a) The commission shall adopt:

- (1) rules for conducting horse racing or greyhound racing in this state that involves wagering; and
- (2) rules for administering this subtitle in a manner consistent with this subtitle.

(b) The commission may establish separate sections to review or propose commission rules.

(c) The commission or a commission section shall hold a meeting on a proposed rule before the commission publishes the proposed rule in the Texas Register.

(d) The commission shall post at each racetrack notice of a meeting under Subsection (c) that includes an agenda of the meeting and a summary of the proposed rule.

(e) A copy of a proposed rule published in the Texas Register shall be posted concurrently at each racetrack.

(f) The commission or a commission section may appoint a committee of experts, members of the public, or other interested parties to advise the commission or section about a proposed commission rule. (V.A.C.S. Art. 179e, Secs. 3.02(a) (part), (b), (c), (d), (e), (f).)

Sec. 2023.005. LIMITATION ON RULES RESTRICTING COMPETITIVE BIDDING

OR ADVERTISING. The commission may not adopt rules restricting competitive bidding or advertising by a license holder except to prohibit false, misleading, or deceptive practices. Commission rules to prohibit false, misleading, or deceptive practices may not:

- (1) restrict the use of any medium for advertising;
- (2) restrict the use of a license holder's personal appearance or voice in an advertisement;
- (3) relate to the size or duration of an advertisement by the license holder; or
- (4) restrict the license holder's advertisement under a trade name. (V.A.C.S. Art. 179e, Sec. 3.021(d).)

Sec. 2023.006. **CONSIDERATION OF PAST PERFORMANCE OF RACETRACK ASSOCIATION.** In considering a pleading of a racetrack association, the commission shall take into account the operating experience of the racetrack association in this state, including:

- (1) the financial condition of the racetrack;
- (2) the regulatory compliance and conduct; and
- (3) any other relevant matter concerning the operation of a racetrack. (V.A.C.S. Art. 179e, Sec. 18.07.)

Sec. 2023.007. **RIGHT OF ENTRY.** A commission member, an authorized commission agent, a commissioned officer of the Department of Public Safety, or a peace officer of the local jurisdiction in which a racetrack association maintains a place of business may enter any part of a racetrack or any other place of business of a racetrack association at any time to enforce and administer this subtitle. (V.A.C.S. Art. 179e, Sec. 3.03.)

Sec. 2023.008. **TESTIMONY AND SUBPOENA POWER.** (a) For purposes of this section, "agent" means an appointed agent of the commission.

(b) A commission member or an agent, while involved in carrying out functions under this subtitle, may:

- (1) take testimony;
- (2) require by subpoena the attendance of a witness; and
- (3) require the production of books, records, papers, correspondence, and other documents that the commission considers advisable.

(c) A subpoena must be issued under the signature of the commission or an agent. A person designated by the commission must serve the subpoena.

(d) A commission member or an agent may administer an oath to a witness appearing before the commission or an agent.

(e) If a subpoena issued under this section is disobeyed, the commission or an agent may invoke the aid of a Travis County district court in requiring compliance with the subpoena. A Travis County district court may issue an order requiring the person to appear and testify and to produce books, records, papers, correspondence, and documents. Failure to obey the court order shall be punished by the court as contempt. (V.A.C.S. Art. 179e, Sec. 3.05; New.)

Sec. 2023.009. **JUDICIAL REVIEW OF COMMISSION ORDER.** (a) Judicial review of a commission order is under the substantial evidence rule.

(b) Venue for judicial review of a commission order is in a district court in Travis County. (V.A.C.S. Art. 179e, Sec. 5.02.)

SUBCHAPTER B. GENERAL POWERS AND DUTIES

Sec. 2023.051. **RECOGNITION OF ORGANIZATION.** (a) The commission by rule shall adopt criteria to recognize an organization to represent members of a segment of the racing industry, including owners, breeders, trainers, kennel operators, or other persons involved in the racing industry, in any interaction between the members of the organization and a racetrack association or the commission.

(b) The commission may recognize an organization that meets the criteria adopted under Subsection (a). (V.A.C.S. Art. 179e, Sec. 3.13.)

Sec. 2023.052. SECURITY FOR FEES AND CHARGES. The commission may require a racetrack association to post security in an amount and form determined by the commission to adequately ensure the payment of any fee or charge due to this state or the commission relating to pari-mutuel racing, including a charge for drug testing. (V.A.C.S. Art. 179e, Sec. 3.17.)

Sec. 2023.053. TEXAS RACING COMMISSION FUND; ADDITIONAL APPROPRIATIONS. (a) The commission shall deposit the money it collects under this subtitle in the state treasury to the credit of a special fund to be known as the Texas Racing Commission fund.

(b) The Texas Racing Commission fund may be appropriated only for the administration and enforcement of this subtitle.

(c) Any unappropriated money exceeding \$750,000 that remains in the fund at the close of each state fiscal biennium shall be transferred to the general revenue fund and may be appropriated for any purpose.

(d) The legislature may appropriate money from the general revenue fund for the administration and enforcement of this subtitle.

(e) Any amount of general revenue appropriated for the administration and enforcement of this subtitle in excess of the cumulative amount deposited in the Texas Racing Commission fund shall be reimbursed from the Texas Racing Commission fund not later than the first anniversary of the date the general revenue funds are appropriated, with 6.75 percent interest. All payments made under this subsection are first attributable to interest accumulated under this subsection. (V.A.C.S. Art. 179e, Sec. 3.09(b).)

Sec. 2023.054. COMMISSION STANDARDS ON GREYHOUND FARMS AND FACILITIES. The commission shall adopt standards relating to the operation of greyhound farms or other facilities where greyhounds are raised for pari-mutuel racing. (V.A.C.S. Art. 179e, Sec. 10.04(b).)

Sec. 2023.055. REPORT OF VIOLATION. The commission's rules must allow anonymous reporting of a violation of this subtitle or of a commission rule. (V.A.C.S. Art. 179e, Sec. 3.12.)

Sec. 2023.056. COOPERATION WITH LAW ENFORCEMENT. (a) The commission shall cooperate with a district attorney, a criminal district attorney, a county attorney, the Department of Public Safety, the attorney general, or a peace officer in enforcing this subtitle.

(b) The commission, under commission authority to obtain criminal history record information under Section 2023.057, shall maintain and exchange pertinent intelligence data with other states and agencies. (V.A.C.S. Art. 179e, Sec. 3.11.)

Sec. 2023.057. ACCESS TO CRIMINAL HISTORY RECORDS. The commission may obtain criminal history record information that relates to each applicant for employment by the commission and to each applicant for a license issued by the commission and that is maintained by the Department of Public Safety or the Federal Bureau of Investigation Identification Division. The commission may refuse to recommend an applicant who fails to provide a complete set of fingerprints. (V.A.C.S. Art. 179e, Sec. 5.04.)

Sec. 2023.058. COST OF CRIMINAL HISTORY RECORD CHECK. (a) The commission shall, in determining the amount of a license fee, set the fee in at least an amount necessary to cover the cost of conducting a criminal history record check on a license applicant.

(b) The commission shall reimburse the Department of Public Safety for the cost of conducting a criminal history record check under this subtitle. (V.A.C.S. Art. 179e, Sec. 5.05.)

Sec. 2023.059. DISTANCE LEARNING. The commission may provide assistance to members of the racing industry who are attempting to develop or implement adult, youth, or continuing education programs that use distance learning. (V.A.C.S. Art. 179e,

Sec. 18.08.)

Sec. 2023.060. **CERTIFIED DOCUMENTS.** Instead of requiring an affidavit or other sworn statement in an application or other document that must be filed with the commission, the commission may require a certification of the document under penalty of perjury in the form prescribed by the commission. (V.A.C.S. Art. 179e, Sec. 3.06.)

Sec. 2023.061. **ANNUAL REPORT.** (a) Not later than January 31 of each year, the commission shall file a report with the governor, lieutenant governor, and speaker of the house of representatives.

(b) The report must cover the operations of the commission and the condition of horse breeding and racing and greyhound breeding and racing during the previous year.

(c) The commission shall obtain from the Department of Public Safety a comprehensive report of any organized crime activities in this state that the department may wish to report and information concerning illegal gambling that may be known to exist in this state. The commission shall include in the annual report the department's report and any recommendations the commission considers appropriate. (V.A.C.S. Art. 179e, Sec. 3.10.)

SUBCHAPTER C. EMPLOYMENT OF AND SUPERVISION BY RACE MEETING OFFICIALS

Sec. 2023.101. **EMPLOYMENT OF STEWARDS AND JUDGES.** (a) A horse race meeting must be supervised by three stewards, and a greyhound race meeting must be supervised by three judges.

(b) The commission shall employ each steward and judge for the supervision of a horse race or greyhound race meeting.

(c) The commission shall designate one steward or judge, as appropriate, as the presiding steward or judge for each race meeting.

(d) Following the completion of a race meeting, a racetrack association may submit to the commission for the commission's review written comments regarding the job performance of the stewards and judges. A racetrack association's comments submitted under this section are not binding, in any way, on the commission. (V.A.C.S. Art. 179e, Sec. 3.07(a) (part).)

Sec. 2023.102. **STEWARDS AND JUDGE EXAMINATIONS.** (a) The commission shall require each steward or judge to annually take and pass a written examination and a medical examination.

(b) The commission by rule shall prescribe the methods and procedures for taking the examinations and the standards for passing.

(c) Failure to pass an examination is a ground for refusal to issue an original or renewal license to a steward or judge or for suspension or revocation of the license. (V.A.C.S. Art. 179e, Sec. 3.07(c).)

Sec. 2023.103. **EMPLOYMENT OF STATE VETERINARIANS.** For each race meeting, the commission shall employ at least one state veterinarian. (V.A.C.S. Art. 179e, Sec. 3.07(a) (part).)

Sec. 2023.104. **RACE MEETING OFFICIAL COMPENSATION AND FEE.** (a) The commission by rule may impose a fee on a racetrack association to offset the costs of compensating each steward, judge, and state veterinarian.

(b) The fee amount for compensating each steward, judge, and state veterinarian must be reasonable according to industry standards for the compensation of those officials at other racetracks and may not exceed the actual cost to the commission for compensating the officials. (V.A.C.S. Art. 179e, Sec. 3.07(a) (part).)

Sec. 2023.105. **EMPLOYMENT OF OTHER RACETRACK OFFICIALS.** The racetrack association shall appoint, with the commission's approval, all racetrack officials other than the officials listed in Section 2023.104. Compensation for officials not compensated by the commission is determined by the racetrack association. (V.A.C.S.

Art. 179e, Sec. 3.07(a) (part).)

Sec. 2023.106. RACE MEETING OFFICIAL POWERS AND DUTIES; RULES. (a) A steward or judge may on any day exercise the supervisory authority granted the steward or judge under this subtitle or commission rule, including the performance of supervisory acts requiring the exercise of discretion.

(b) The commission shall adopt rules that specify the power and duties of each race meeting official, including the power of a steward or judge to impose penalties for unethical practices or violations of racing rules.

(c) A penalty imposed by a steward or judge may include a fine of not more than \$25,000, a suspension not to exceed five years, or both a fine and suspension.

(d) Before imposing a penalty under this section, a steward or judge shall conduct a hearing that is consistent with constitutional due process. A hearing conducted by a steward or judge under this section is not subject to Chapter 2001, Government Code. (V.A.C.S. Art. 179e, Secs. 3.07(b) (part), (g).)

Sec. 2023.107. EXECUTIVE DIRECTOR REVIEW AND MODIFICATION OF PENALTY. (a) A decision of a steward or judge is subject to review by the executive director, who may modify the penalty.

(b) A penalty modified by the executive director under this section may include a fine of not more than \$100,000, a suspension not to exceed five years, or both a fine and a suspension. (V.A.C.S. Art. 179e, Sec. 3.07(b) (part).)

Sec. 2023.108. FINAL DECISION; AVAILABILITY OF APPEAL. (a) A decision of a steward or judge that is not reviewed or modified by the executive director is a final decision.

(b) Any decision of a steward or judge may be appealed under Section 2023.109 regardless of whether the decision is modified by the executive director. (V.A.C.S. Art. 179e, Sec. 3.07(b) (part).)

Sec. 2023.109. APPEAL FROM DECISION OF RACE MEETING OFFICIAL; DECISIONS NOT APPEALABLE. (a) Except as provided by Subsection (b), a final decision of the stewards or judges may be appealed to the commission in the manner provided for a contested case under Chapter 2001, Government Code.

(b) A decision of the stewards or judges on a disqualification for a foul in a race or on a finding of fact regarding the running of a race is final and may not be appealed. (V.A.C.S. Art. 179e, Sec. 3.08.)

CHAPTER 2024. POWERS AND DUTIES OF COMPTROLLER

SUBCHAPTER A. GENERAL POWERS AND DUTIES

Sec. 2024.001. COMPTROLLER RULES

Sec. 2024.002. INSPECTION OF BOOKS, RECORDS, AND FINANCIAL STATEMENTS

Sec. 2024.003. RIGHT OF ENTRY

SUBCHAPTER B. COLLECTION AND DEPOSIT OF STATE'S SHARE OF PARI-MUTUEL POOL

Sec. 2024.051. COLLECTION AND DEPOSIT OF STATE'S SHARE

Sec. 2024.052. SECURITY

Sec. 2024.053. CERTIFICATION OF NONCOMPLIANCE; ADMINISTRATIVE APPEAL

Sec. 2024.054. PENALTIES FOR LATE PAYMENT OR REPORT

Sec. 2024.055. DEPOSIT OF STATE'S SHARE

SUBCHAPTER C. APPLICABILITY OF OTHER LAW

Sec. 2024.101. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS

CHAPTER 2024. POWERS AND DUTIES OF COMPTROLLER

SUBCHAPTER A. GENERAL POWERS AND DUTIES

Sec. 2024.001. **COMPTROLLER RULES.** The comptroller may adopt rules for the enforcement of the comptroller's powers and duties under this subtitle. (V.A.C.S. Art. 179e, Sec. 4.03.)

Sec. 2024.002. **INSPECTION OF BOOKS, RECORDS, AND FINANCIAL STATEMENTS.** (a) The comptroller may inspect all books, records, and financial statements required by the commission under Section 2022.105.

(b) The comptroller by rule may specify the form and manner in which the books, records, and financial statements are to be kept and reports that relate to the state's share of a pari-mutuel pool are to be filed. (V.A.C.S. Art. 179e, Sec. 4.01.)

Sec. 2024.003. **RIGHT OF ENTRY.** The comptroller and the agents authorized by the comptroller may enter at any time the office, racetrack, or other place of business of a racetrack association or totalisator license holder to:

- (1) inspect books, records, or financial statements; or
- (2) inspect and test the totalisator system to determine the accuracy of totalisator-generated reports and calculations relating to the state's share of a pari-mutuel pool. (V.A.C.S. Art. 179e, Sec. 4.02.)

SUBCHAPTER B. COLLECTION AND DEPOSIT OF STATE'S SHARE OF PARI-MUTUEL POOL

Sec. 2024.051. **COLLECTION AND DEPOSIT OF STATE'S SHARE.** (a) The comptroller by rule may prescribe procedures for the collection and deposit of the state's share of each pari-mutuel pool.

(b) A racetrack association shall deposit the state's share of each pari-mutuel pool at the time and in the manner prescribed by comptroller rule. (V.A.C.S. Art. 179e, Sec. 4.04(a).)

Sec. 2024.052. **SECURITY.** (a) The comptroller by rule may require each racetrack association to post security in an amount estimated to be sufficient to cover the amount of state money that the racetrack association will collect and hold between bank deposits to ensure payment of the state's share of a pari-mutuel pool.

(b) The following are acceptable as security for purposes of this section:

- (1) cash;
- (2) a cashier's check;
- (3) a surety bond;
- (4) an irrevocable bank letter of credit;
- (5) a United States Treasury bond that is readily convertible to cash; or
- (6) an irrevocable assignment of a federally insured account in a bank, savings and loan institution, or credit union. (V.A.C.S. Art. 179e, Sec. 4.04(b).)

Sec. 2024.053. **CERTIFICATION OF NONCOMPLIANCE; ADMINISTRATIVE APPEAL.** (a) The comptroller shall certify to the commission the fact that a racetrack association or totalisator company:

- (1) does not comply with a rule adopted by the comptroller under this chapter;
- (2) refuses to allow access to or inspection of any of the racetrack association's or totalisator company's required books, records, or financial statements;
- (3) refuses to allow access to or inspection of the totalisator system; or
- (4) becomes delinquent for:
 - (A) the state's share of a pari-mutuel pool; or
 - (B) any other tax collected by the comptroller.

(b) With regard to the state's share of a pari-mutuel pool and any penalty related to the state's share, the comptroller, acting independently of the commission, may take any collection or enforcement action authorized under the Tax Code against a delinquent taxpayer.

(c) An administrative appeal related to the state's share of a pari-mutuel pool or late reporting or deposit of the state's share is to the comptroller and then to the courts, as provided by Title 2, Tax Code. (V.A.C.S. Art. 179e, Secs. 4.05(a), (b) (part).)

Sec. 2024.054. **PENALTIES FOR LATE PAYMENT OR REPORT.** (a) A racetrack association is liable for a penalty if the racetrack association does not pay the state's share of a pari-mutuel pool or file a report related to the payment of that share on or before the time the payment or report is due.

(b) The amount of the penalty under Subsection (a) is the greater of:

- (1) five percent of the total amount due; or
- (2) \$1,000.

(c) An additional penalty in an amount equal to one percent of the unpaid amount of the state's share of the pari-mutuel pool shall be added for each business day that the required report or payment is late, up to a maximum penalty of 12 percent.

(d) A penalty under this section may be waived in a situation in which a penalty would be waived under Section 111.103, Tax Code. (V.A.C.S. Art. 179e, Sec. 4.06.)

Sec. 2024.055. **DEPOSIT OF STATE'S SHARE.** The comptroller shall deposit the state's share of each pari-mutuel pool from horse racing and greyhound racing in the general revenue fund. (V.A.C.S. Art. 179e, Sec. 3.09(a).)

SUBCHAPTER C. APPLICABILITY OF OTHER LAW

Sec. 2024.101. **APPLICABILITY OF CERTAIN TAX CODE PROVISIONS.** (a) Unless inconsistent with this subtitle, Chapters 111 through 113, Tax Code, including provisions relating to the assessment of penalties and interest, apply to the collection of the state's share of a pari-mutuel pool under this subtitle.

(b) The state's share of a pari-mutuel pool under this subtitle is treated as if it were a tax for purposes of this section in applying the provisions of the Tax Code described by Subsection (a).

(c) The comptroller may use any procedure authorized under Title 2, Tax Code, for purposes of collecting the state's share of a pari-mutuel pool under this subtitle. (V.A.C.S. Art. 179e, Sec. 6.10.)

CHAPTER 2025. LICENSING

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CHAPTER 2025. LICENSING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2025.001. COMMISSION LICENSING DUTIES. (a) To preserve and protect the public health, welfare, and safety, the commission shall adopt rules relating to license applications and the financial responsibility, moral character, and ability of applicants.

(b) The commission shall prescribe application forms for licenses issued under this subtitle and shall provide each occupational license holder with a credential.

(c) The commission shall annually prescribe reasonable license fees for each category of license issued under this subtitle.

(d) The commission by rule shall set fees in amounts reasonable and necessary to cover the commission's costs of regulating, overseeing, and licensing live and simulcast racing at racetracks. (V.A.C.S. Art. 179e, Secs. 5.01(a), (b), (d), 6.06(a) (part).)

Sec. 2025.002. LICENSE AS PRIVILEGE. The operation of a racetrack and the participation in racing are privileges, not rights, granted only by the commission by license and subject to reasonable and necessary conditions set by the commission. (V.A.C.S. Art. 179e, Sec. 5.01(c).)

Sec. 2025.003. FINGERPRINTS REQUIRED. (a) An applicant for a license or license renewal under this subtitle must, except as otherwise provided by Section 2025.261, submit to the commission a complete set of fingerprints for:

(1) the applicant; or

(2) if the applicant is not an individual, each officer or director of, and each person who owns at least a five percent interest in, the applicant.

(b) The Department of Public Safety may request any person owning any interest in an applicant for a racetrack license to submit a complete set of fingerprints.

(c) A peace officer of any state, or any district office of the commission, shall take the fingerprints of an applicant for a license or license renewal on forms approved and furnished by the Department of Public Safety and immediately deliver the forms to the commission.

(d) If a complete set of fingerprints is required by the commission, the commission shall, not later than the 10th business day after the date the commission receives the fingerprints, forward the fingerprints to the Department of Public Safety or the Federal Bureau of Investigation. If the fingerprints are forwarded to the Department of Public Safety, the department shall:

(1) classify the fingerprints and check the fingerprints against the department's fingerprint files; and

(2) report to the commission the department's findings concerning the existence or lack of a criminal record of the applicant.

(e) The commission may not issue a racetrack license until the report under Subsection (d) is made to the commission. The commission may issue a temporary occupational license before the report is made to the commission. (V.A.C.S. Art. 179e, Sec. 5.03.)

SUBCHAPTER B. RACETRACK LICENSE APPLICATION REQUIREMENTS

Sec. 2025.051. RACETRACK LICENSE REQUIRED; CRIMINAL PENALTY. A person may not conduct wagering on a horse or greyhound race meeting without first obtaining a racetrack license issued by the commission. A person who violates this section commits an offense. (V.A.C.S. Art. 179e, Sec. 6.01.)

Sec. 2025.052. APPLICATION. (a) The commission shall require each applicant for an original racetrack license to submit an application, on a form prescribed by the commission, containing the following information:

(1) if the applicant is an individual:

(A) the individual's full name;

(B) the individual's date of birth;

(C) the individual's physical description;

(D) the individual's current address and telephone number; and

(E) a statement by the individual disclosing any arrest or conviction for a felony or for a misdemeanor, except a misdemeanor under Subtitle C, Title 7, Transportation Code, or a similar misdemeanor traffic offense;

(2) if the applicant is a corporation:

- (A) the state of incorporation;
 - (B) the names and addresses of the corporation's agents for service of process in this state;
 - (C) the name and address of each officer and director of the corporation;
 - (D) the name and address of each stockholder of the corporation;
 - (E) for each individual named under this subdivision, the information required by Subdivision (1); and
 - (F) identification of:
 - (i) any other beneficial owner of a share in the applicant that has absolute or contingent voting rights;
 - (ii) any other person who directly or indirectly exercises any participation in the applicant; and
 - (iii) any other ownership interest in the applicant that the applicant making its best effort is able to identify;
 - (3) if the applicant is an unincorporated business association:
 - (A) the name and address of each member of the association and, for each individual named under this subdivision, the information required by Subdivision (1); and
 - (B) identification of:
 - (i) any other person who exercises voting rights in the applicant or directly or indirectly exercises any participation in the applicant; and
 - (ii) any other ownership interest in the applicant that the applicant making its best effort is able to identify;
 - (4) the exact location at which a race meeting is to be conducted;
 - (5) if the racetrack is in existence, whether it is owned by the applicant and, if leased to the applicant:
 - (A) the name and address of the owner; and
 - (B) if the owner is a corporation or unincorporated business association, the name and address of each officer and director, any stockholder or member, and each agent for service of process in this state;
 - (6) if construction of the racetrack has not been initiated, whether it is to be owned by the applicant and, if it is to be leased to the applicant:
 - (A) the name and address of the prospective owner; and
 - (B) if the owner is a corporation or unincorporated business association, the information required by Subdivision (5)(B);
 - (7) identification of:
 - (A) any other beneficial owner of a share that has absolute or contingent voting rights in the owner or prospective owner of the racetrack;
 - (B) any other person that directly or indirectly exercises any participation in the owner or prospective owner; and
 - (C) all other ownership interest in the owner or prospective owner that the applicant making its best effort is able to identify;
 - (8) a detailed statement of the applicant's assets and liabilities;
 - (9) the type of racing to be conducted and the dates requested;
 - (10) proof of residency as required by Section 2025.201; and
 - (11) any other information required by the commission.
- (b) An application must be sworn to:

(1) by the applicant; or

(2) if the applicant is a corporation or association, by its chief executive officer.

(c) If the applicant is a nonprofit corporation, only directors and officers of the corporation must disclose the information required under Subsection (a)(2). (V.A.C.S. Art. 179e, Secs. 6.03(a) (part), (c), (f).)

Sec. 2025.053. APPLICATION FEE. (a) The commission shall require each applicant for an original racetrack license to pay the required application fee. The fee must accompany the application and be paid in the form of a cashier's check or certified check.

(b) The commission shall set application fees in amounts reasonable and necessary to cover the costs of administering this subtitle. The commission by rule shall establish a schedule of application fees for the various types and classifications of racetracks using minimum application fees. The minimum application fee:

(1) for a horse racetrack is:

(A) \$15,000 for a class 1 racetrack;

(B) \$7,500 for a class 2 racetrack;

(C) \$2,500 for a class 3 racetrack; and

(D) \$1,500 for a class 4 racetrack; and

(2) for a greyhound racetrack is \$20,000.

(c) Notwithstanding this section, if a licensed racetrack petitions for a higher racetrack classification, the commission shall impose fees equal to the difference between the fees previously paid and the fees required for the higher classification. (V.A.C.S. Art. 179e, Secs. 6.03(a) (part), (d), (e), (i).)

Sec. 2025.054. MANAGEMENT, CONCESSION, AND TOTALISATOR CONTRACTS.

(a) The commission shall require each applicant for an original racetrack license to submit with the application for inspection and review by the commission a copy of each management, concession, and totalisator contract associated with the proposed license at the proposed location in which the applicant has an interest.

(b) An applicant or license holder shall advise the commission of any change in any management, concession, or totalisator contract.

(c) The criminal history record information, fingerprint, and other information required of a license applicant under Sections 2023.057, 2025.003, and 2025.052(a)(1)–(3) are required of proposed totalisator firms, concessionaires, and managers and management firms. (V.A.C.S. Art. 179e, Sec. 6.03(a) (part).)

Sec. 2025.055. CONFIDENTIALITY OF APPLICATION DOCUMENTS. Documents submitted to the commission under Sections 2025.051–2025.054 by an applicant are subject to discovery in a suit brought under this subtitle but are not public records and are not subject to Chapter 552, Government Code. (V.A.C.S. Art. 179e, Sec. 6.03(b) (part).)

Sec. 2025.056. BACKGROUND CHECK. (a) The commission shall require a complete personal, financial, and business background check of the applicant or of any person who owns an interest in or exercises control over an applicant for a racetrack license, including the partners, stockholders, concessionaires, management personnel, management firms, and creditors.

(b) The commission shall refuse to issue or renew a license if, in the commission's sole discretion, the background checks reveal anything that may be detrimental to the public interest or the racing industry.

(c) The commission may not hold a hearing on the application, or any part of the application, of a racetrack license applicant before the 14th day after the date the completed background check of the applicant has been on file with the commission. (V.A.C.S. Art. 179e, Sec. 6.031 (part).)

Sec. 2025.057. BOND. (a) The commission may, at any time, require a holder of or

applicant for a racetrack license to post security in an amount reasonably necessary, as provided by commission rule, to adequately ensure the license holder's or applicant's compliance with substantive requirements of this subtitle and commission rules.

(b) The following are acceptable as security for purposes of this section:

- (1) cash;
- (2) a cashier's check;
- (3) a surety bond;
- (4) an irrevocable bank letter of credit;
- (5) a United States Treasury bond that is readily convertible to cash; or
- (6) an irrevocable assignment of a federally insured deposit in a bank, savings and loan institution, or credit union.

(c) The security described by Subsection (b) must be:

- (1) conditioned on compliance with this subtitle and commission rules adopted under this subtitle; and
- (2) returned after satisfying the conditions of the security. (V.A.C.S. Art. 179e, Sec. 6.032.)

Sec. 2025.058. NOTIFICATION OF COMPLETED APPLICATION. When all requirements for the applicant's licensure described in this chapter have been satisfied, the commission shall notify the applicant that the application is complete. (V.A.C.S. Art. 179e, Sec. 6.04(a-1).)

SUBCHAPTER C. RACETRACK LICENSE ISSUANCE AND RENEWAL

Sec. 2025.101. LICENSE ELIGIBILITY REQUIREMENTS AND LIMITATIONS.

(a) The burden of proof is on the applicant for an original racetrack license to show compliance with this subtitle and commission rules. An applicant who does not show the necessary compliance is not eligible for a license under this chapter.

(b) In considering an application for a horse racetrack license under this chapter, the commission shall give additional weight to evidence concerning an applicant who has experience operating a horse racetrack licensed under this subtitle.

(c) The commission may not issue a license to operate a class 1 or class 2 racetrack or a greyhound racetrack to a corporation unless:

- (1) the corporation is incorporated under the laws of this state; and
- (2) a majority of any of its corporate stock is owned at all times by individuals who meet the residency qualifications prescribed by Section 2025.201 for individual applicants.

(d) The majority ownership of a partnership, firm, or association applying for or holding a license must be held by citizens who meet the residency qualifications enumerated in Section 2025.201 for individual applicants. A corporation that holds a license to operate a racetrack under this subtitle and that violates this subsection is subject to forfeiture of its charter. The attorney general, on receipt of information relating to the violation, shall file suit in a district court of Travis County for cancellation of the charter and revocation of the license issued under this subtitle.

(e) Subsections (c) and (d) and Section 2025.201(a)(12) do not apply to an applicant for or the holder of a racetrack license if the applicant, the license holder, or the license holder's parent company is a publicly traded company.

(f) The commission may condition the issuance of a license under this chapter on the observance of commission rules. The commission may amend the rules at any time and may condition the continued holding of the license on compliance with the rules as amended.

(g) A person may not own more than a five percent interest in more than three racetracks licensed under this subtitle.

(h) Notwithstanding any other law, a person who owns an interest in two or more racetracks licensed under this subtitle and who also owns an interest in a license issued under Subtitle B, Title 3, Alcoholic Beverage Code, may own an interest in the premises of another holder of a license or permit under Title 3, Alcoholic Beverage Code, if the premises of that other license or permit holder are part of the premises of a racetrack licensed under this subtitle. (V.A.C.S. Art. 179e, Secs. 6.03(g), (h), 6.06(c), (d) (part), (e), (h), (i), (j).)

Sec. 2025.102. QUALIFICATIONS FOR ISSUANCE OF RACETRACK LICENSE.

(a) The commission may issue a racetrack license to a qualified person if the commission:

(1) determines that the conduct of race meetings at the proposed racetrack and location:

- (A) will be in the public interest;
- (B) complies with all zoning laws; and
- (C) complies with this subtitle and commission rules; and

(2) determines by clear and convincing evidence that the applicant will comply with all criminal laws of this state.

(b) In determining whether to grant or deny an application for any class of racetrack license, the commission may consider:

- (1) the applicant's financial stability;
- (2) the applicant's resources for supplementing the purses for races for various breeds;
- (3) the location of the proposed racetrack;
- (4) the effect of the proposed racetrack on traffic flow;
- (5) facilities for patrons and occupational license holders;
- (6) facilities for race animals;
- (7) availability to the racetrack of support services and emergency services;
- (8) the experience of the applicant's employees;
- (9) the potential for conflict with other licensed race meetings;
- (10) the anticipated effect of the race meeting on the horse or greyhound breeding industry in this state; and
- (11) the anticipated effect of the race meeting on the state and local economy from tourism, increased employment, and other sources.

(c) The commission shall make a determination on a pending application not later than the 120th day after the date the commission provides the notice required under Section 2025.058. (V.A.C.S. Art. 179e, Secs. 6.04(a), (a-2).)

Sec. 2025.103. ISSUANCE OF TEMPORARY LICENSE. (a) After a racetrack association has been granted a license to operate a racetrack and before the completion of construction at the designated place for which the license was issued, the commission may, on application by the racetrack association, issue a temporary license that authorizes the racetrack association to conduct races at a location in the same county until the earlier of:

- (1) the second anniversary of the date of issuance of the temporary license; or
- (2) the completion of the permanent facility.

(b) An applicant for a temporary license must pay the application fees and post the bonds required of other license holders before the issuance of a temporary license.

(c) The commission may set conditions and standards for issuance of a temporary license and allocation of appropriate race days.

(d) The commission may not issue a new temporary license or an extension of a temporary license to a person or to an individual belonging to a corporation or association that has been granted a temporary license after the temporary license has expired.

(V.A.C.S. Art. 179e, Sec. 6.15.)

Sec. 2025.104. DESIGNATION OF RACETRACK LICENSE AS ACTIVE OR INACTIVE. (a) The commission shall designate each racetrack license as an active license or an inactive license. The commission may change the designation of a racetrack license as appropriate.

(b) The commission shall designate a racetrack license as an active license if the license holder:

- (1) holds live racing events at the racetrack; or
- (2) makes good faith efforts to conduct live racing.

(c) The commission by rule shall provide guidance on actions that constitute, for purposes of this subtitle, good faith efforts to conduct live racing.

(d) Before the first anniversary of the date a new racetrack license is issued, the commission shall conduct an evaluation of the license to determine whether the license is an active or inactive license.

(e) An active license is effective until the license is designated as an inactive license or is surrendered, suspended, or revoked under this subtitle. (V.A.C.S. Art. 179e, Sec. 6.0601.)

Sec. 2025.105. RENEWAL OF INACTIVE RACETRACK LICENSE; FEES. (a) The commission by rule shall establish an annual renewal process for inactive licenses and may require the license holder to provide any information required for an original license application under this subtitle. An inactive license holder must complete the annual renewal process established under this section until the commission:

- (1) designates the license as an active license; or
- (2) refuses to renew the license.

(b) In determining whether to renew an inactive license, the commission shall consider:

- (1) the inactive license holder's:
 - (A) financial stability;
 - (B) ability to conduct live racing;
 - (C) ability to construct and maintain a racetrack; and
 - (D) other good faith efforts to conduct live racing; and
- (2) other necessary factors considered in the issuance of the original license.

(c) The commission may refuse to renew an inactive license if, after notice and a hearing, the commission determines that:

- (1) renewal of the license is not in the best interests of the racing industry or the public; or
- (2) the license holder has failed to make a good faith effort to conduct live racing.

(d) The commission shall consult with members of the racing industry and other key stakeholders in developing the license renewal process under this section.

(e) The commission shall set and collect renewal fees in amounts reasonable and necessary to cover the costs of administering and enforcing this section.

(f) The commission by rule shall establish criteria to make the determinations under Subsection (c). (V.A.C.S. Art. 179e, Sec. 6.0602.)

Sec. 2025.106. COMMISSION REVIEW OF ACTIVE RACETRACK LICENSE; FEE.

(a) The commission shall review the ownership and management of an active license issued under this chapter every five years beginning on the fifth anniversary of the date of issuance of the license.

(b) In performing the review, the commission may require the license holder to provide any information that would be required to be provided in connection with an original license application under this chapter.

(c) The commission shall charge fees for the review in amounts sufficient to implement this section. (V.A.C.S. Art. 179e, Sec. 6.06(k).)

Sec. 2025.107. RACETRACK LICENSE NOT TRANSFERABLE; TEMPORARY LICENSE. (a) A racetrack license is not transferable.

(b) If the death of any person causes a violation of the licensing provisions of this subtitle, the commission may issue, in accordance with commission rules, a temporary license for a period not to exceed one year. (V.A.C.S. Art. 179e, Sec. 6.12.)

Sec. 2025.108. RACETRACK LICENSE ANNUAL FEE. The commission may prescribe a reasonable annual fee to be paid by each racetrack license holder. The fee must be in an amount sufficient to provide that the total amount of fees imposed under this section, the license fees prescribed under Section 2025.001(c), and the renewal fees prescribed under Section 2025.105(e) are sufficient to cover the costs of administering and enforcing this subtitle. (V.A.C.S. Art. 179e, Sec. 6.18.)

SUBCHAPTER D. GREYHOUND RACETRACK LICENSES

Sec. 2025.151. LIMITATION ON NUMBER OF GREYHOUND RACETRACK LICENSES. The commission may not issue licenses for more than three greyhound racetracks in this state. (V.A.C.S. Art 179e, Secs. 6.04(c) (part), 6.14(b).)

Sec. 2025.152. LOCATION RESTRICTION FOR GREYHOUND RACETRACK. Each greyhound racetrack must be located in a county that:

- (1) has a population of more than 190,000;
- (2) borders the Gulf of Mexico; and
- (3) includes all or part of an island that borders the Gulf of Mexico. (V.A.C.S. Art. 179e, Secs. 6.04(c) (part), 6.14(c).)

SUBCHAPTER E. DISCIPLINARY ACTION FOR RACETRACK LICENSE HOLDERS

Sec. 2025.201. GROUNDS FOR DENIAL, REVOCATION, OR SUSPENSION OF RACETRACK LICENSE. (a) The commission may refuse to issue a racetrack license or may revoke or suspend a license if, after notice and hearing, the commission finds that the applicant or license holder, as appropriate:

- (1) has been convicted of a violation of this subtitle or a commission rule, or has aided, abetted, or conspired to commit a violation of this subtitle or a commission rule;
- (2) has been convicted of a felony or a crime involving moral turpitude, including a conviction for which the punishment received was a suspended sentence, probation, or a nonadjudicated conviction, that is reasonably related to the person's present fitness to hold a license under this subtitle;
- (3) has violated or has caused to be violated this subtitle or a commission rule in a manner that involves moral turpitude, as distinguished from a technical violation of this subtitle or a rule;
- (4) is unqualified, by experience or otherwise, to perform the duties required of a license holder under this subtitle;
- (5) failed to answer or falsely or incorrectly answered a question in an application;
- (6) fails to disclose the true ownership or interest in a horse or greyhound as required by commission rules;
- (7) is indebted to this state for any fee or for the payment of a penalty imposed by this subtitle or a commission rule;
- (8) is not of good moral character or the person's reputation as a peaceable, law-abiding citizen in the community where the person resides is bad;
- (9) is not at least the minimum age necessary to purchase alcoholic beverages in this state;
- (10) is in the habit of using alcoholic beverages to an excess or uses a controlled

substance as defined by Chapter 481, Health and Safety Code, or a dangerous drug as defined in Chapter 483, Health and Safety Code, or is mentally incapacitated;

(11) may be excluded from an enclosure under this subtitle;

(12) has not been a United States citizen residing in this state for the 10 consecutive years preceding the filing of the application;

(13) has improperly used a credential, including a license certificate or identification card, issued under this subtitle;

(14) resides with a person whose license was revoked for cause during the 12 months preceding the date of the present application;

(15) has failed or refused to furnish a true copy of the application to the commission's district office in the district in which the premises for which the license is sought are located;

(16) is engaged or has engaged in activities or practices the commission determines are detrimental to the best interests of the public and the sport of horse racing or greyhound racing; or

(17) fails to fully disclose the true owners of all interests, beneficial or otherwise, in a proposed racetrack.

(b) Subsection (a) applies to a corporation, partnership, limited partnership, or any other organization or group whose application is composed of more than one person if a shareholder, partner, limited partner, director, or officer is disqualified under Subsection (a).

(c) The commission may refuse to issue a license or may suspend or revoke a license of a license holder under this subchapter who knowingly or intentionally allows access to an enclosure where horse races or greyhound races are conducted to a person:

(1) who has engaged in bookmaking, touting, or illegal wagering;

(2) whose income is from illegal activities or enterprises; or

(3) who has been convicted of a violation of this subtitle. (V.A.C.S. Art. 179e, Secs. 6.06(a) (part), (b), (f).)

Sec. 2025.202. DISCIPLINARY ACTION; ADMINISTRATIVE PENALTY. (a) The commission by rule shall establish procedures for disciplinary action against a racetrack license holder.

(b) Notwithstanding the requirements of Section 2033.151, if, after notice and hearing as provided by Section 2033.152, the commission finds that a racetrack license holder or a person employed by the racetrack has violated this subtitle or a commission rule, or if the commission finds during a review or renewal that the racetrack is ineligible for a license under this chapter, the commission may:

(1) revoke, suspend, or refuse to renew the racetrack license;

(2) impose an administrative penalty as provided under Section 2033.051; or

(3) take any other action as provided by commission rule.

(c) The commission may not revoke an active license unless the commission reasonably determines that other disciplinary actions are inadequate to remedy the violation. (V.A.C.S. Art. 179e, Sec. 6.0603; New.)

Sec. 2025.203. SUMMARY SUSPENSION. (a) The commission may summarily suspend a racetrack license if the commission determines that a racetrack at which races or pari-mutuel wagering are conducted under the license is being operated in a manner that constitutes an immediate threat to the health, safety, or welfare of the racing participants or the patrons.

(b) After issuing a summary suspension order, the executive director shall serve on the racetrack association an order:

(1) stating the specific charges; and

(2) requiring the license holder immediately to cease and desist from all conduct permitted by the license.

(c) The executive director shall serve the order by personal delivery or registered or certified mail, return receipt requested, to the license holder's last known address. The order must contain a notice that a request for hearing may be filed under this subchapter.

(d) A summary suspension order continues in effect unless the order is stayed by the executive director. The executive director may impose any condition before granting a stay of the order. (V.A.C.S. Art. 179e, Secs. 6.063(a), (b), (e).)

Sec. 2025.204. SUMMARY SUSPENSION HEARING. (a) A racetrack association that is the subject of a summary suspension order may request a hearing. The request must be filed with the executive director not later than the 10th day after the date the order was received or delivered. The request must:

- (1) be in writing;
- (2) be directed to the executive director; and
- (3) state the grounds for the request to set aside or modify the order.

(b) Unless a license holder who is the subject of the order requests a hearing in writing before the 11th day after the date the order is received or delivered, the order is final and nonappealable as to that license holder.

(c) On receiving a request for a hearing, the executive director shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. The hearing must be held not later than the 10th day after the date the executive director receives the request for a hearing unless the parties agree to a later hearing date.

(d) At the hearing, the commission has the burden of proof and must present evidence in support of the order. The license holder requesting the hearing may cross-examine witnesses and show cause why the order should not be affirmed.

(e) Section 2003.021(b), Government Code, does not apply to a hearing conducted under this section. (V.A.C.S. Art. 179e, Secs. 6.063(c), (d).)

Sec. 2025.205. SUMMARY SUSPENSION FINAL ORDER. After the hearing on the suspension of a racetrack license, the executive director shall affirm, modify, or set aside, wholly or partly, the summary suspension order. An order affirming or modifying the summary suspension order is final for purposes of enforcement and appeal. (V.A.C.S. Art. 179e, Sec. 6.063(f).)

SUBCHAPTER F. OCCUPATIONAL LICENSES

Sec. 2025.251. OCCUPATIONAL LICENSE REQUIRED. (a) Except as provided by this section, a person, other than as a spectator or as a person placing a wager, may not participate in racing with pari-mutuel wagering without first obtaining a license from the commission. A person may not engage in any occupation for which commission rules require a license under this subtitle without first obtaining a license from the commission.

(b) The commission by rule shall categorize the occupations of racetrack employees and determine the occupations that afford the employee an opportunity to influence racing with pari-mutuel wagering. The rules must require an employee to be licensed under this subtitle if the employee:

- (1) works in an occupation determined by the commission to afford the employee an opportunity to influence racing with pari-mutuel wagering; or
- (2) will likely have significant access to the backside of a racetrack or to restricted areas of the frontside of a racetrack. (V.A.C.S. Art. 179e, Secs. 7.01(a), (b).)

Sec. 2025.252. LICENSE CATEGORIES. The commission shall adopt categories of licenses for the various occupations licensed under this subchapter and shall specify by rule the qualifications and experience required for licensing in each category that requires specific qualifications or experience. (V.A.C.S. Art. 179e, Sec. 7.02(b).)

Sec. 2025.253. EXAMINATION NOTIFICATION. (a) If an examination is required for the issuance of a license under this subchapter, the commission shall notify each examinee of the results of the examination not later than the 30th day after the date the licensing examination is administered under this subtitle.

(b) If requested in writing by a person who fails a licensing examination administered under this subtitle, the commission shall furnish the person with an analysis of the person's performance on the examination. (V.A.C.S. Art. 179e, Secs. 7.02(c), (d).)

Sec. 2025.254. **ISSUANCE OF LICENSE.** The commission shall issue a license to a qualified person on application and payment of the license fee. (V.A.C.S. Art. 179e, Sec. 7.03.)

Sec. 2025.255. **ISSUANCE OF IDENTIFICATION CARD.** The commission shall issue a license certificate under this subchapter in the form of an identification card with a photograph and other information as prescribed by the commission. (V.A.C.S. Art. 179e, Sec. 7.06.)

Sec. 2025.256. **LICENSE FEES.** (a) The commission by rule shall adopt a fee schedule for licenses issued under this subchapter.

(b) The commission shall base the license fee amounts on the relative or comparative incomes or property interests of the various categories of license holders, with the lower income categories charged nearer the minimum fee and the higher income categories charged nearer the maximum fee.

(c) In setting the fee schedule under Subsection (a), the commission shall include the cost of criminal history record information obtained under Section 2023.058. The commission may determine the best method for recovering this cost and complying with this section, including collecting the costs over an extended period. (V.A.C.S. Art. 179e, Sec. 7.05.)

Sec. 2025.257. **TERM OF LICENSE; RENEWAL.** (a) A license issued under this subchapter is valid for a period set by the commission not to exceed 36 months following the date of issuance. The license is renewable on the:

- (1) completion of an application;
- (2) receipt of satisfactory results of a criminal history record information check; and
- (3) payment of the fee in accordance with commission rules.

(b) The commission by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license fees shall be prorated on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable. (V.A.C.S. Art. 179e, Secs. 7.07(a), (b).)

Sec. 2025.258. **CRIMINAL HISTORY RECORD INFORMATION.** (a) The commission shall obtain criminal history record information on each applicant renewing an occupational license under this subchapter.

(b) The commission shall ensure that criminal history record information is obtained on each license holder at least once every 36 months. (V.A.C.S. Art. 179e, Sec. 7.07(a-1).)

Sec. 2025.259. **LICENSE VALID THROUGHOUT STATE.** A license issued under this subchapter is valid, as determined by the commission, at all race meetings conducted in this state. (V.A.C.S. Art. 179e, Sec. 7.08.)

Sec. 2025.260. **TEMPORARY LICENSES.** (a) Pending investigation of an applicant's qualifications to receive an original or renewal license, the commission may issue a temporary license to an applicant under this subchapter whose application appears to comply with the requirements of law and who has paid the necessary fee.

(b) The temporary license is valid for a period not to exceed 120 days following the date of issuance. (V.A.C.S. Art. 179e, Sec. 7.09.)

Sec. 2025.261. **RECIPROCAL LICENSES; OUT-OF-STATE APPLICANTS.** (a) The commission may waive any prerequisite to obtaining a license for an applicant, including any requirement to submit a set of fingerprints, after reviewing the applicant's credentials and determining that the applicant holds a license from another state that has license requirements substantially equivalent to the requirements of this state.

(b) The commission may waive any prerequisite to obtaining a license, including any

requirement to submit a set of fingerprints, for an applicant who holds a license from another state with which this state has a reciprocity agreement. The commission may enter into agreements with other states to allow for licensing by reciprocity. (V.A.C.S. Art. 179e, Sec. 7.10.)

Sec. 2025.262. GROUND FOR DENIAL, REVOCATION, AND SUSPENSION OF OCCUPATIONAL LICENSE. The commission may refuse to issue any original or renewal license under this subchapter or may revoke or suspend the license if, after notice and hearing, the commission finds that the applicant or license holder, as appropriate:

- (1) has been convicted of a violation of this subtitle or a commission rule or has aided, abetted, or conspired to commit a violation of this subtitle or a commission rule;
- (2) has been convicted of a felony or a crime involving moral turpitude that is reasonably related to the person's present fitness to hold a license under this subtitle;
- (3) has violated or has caused to be violated this subtitle or a commission rule in a manner that involves moral turpitude, as distinguished from a technical violation of this subtitle or a rule;
- (4) is unqualified, by experience or otherwise, to perform the duties required of a license holder under this subtitle;
- (5) failed to answer or has falsely or incorrectly answered a question in an original or renewal application;
- (6) fails to disclose the true ownership or interest in a horse or greyhound as required by commission rules;
- (7) is indebted to this state for any fee or for the payment of a penalty imposed by this subtitle or a commission rule;
- (8) is not of good moral character or the person's reputation as a peaceable, law-abiding citizen in the community where the person resides is bad;
- (9) is in the habit of using alcoholic beverages to an excess or uses a controlled substance as defined in Chapter 481, Health and Safety Code, or a dangerous drug as defined in Chapter 483, Health and Safety Code, or is mentally incapacitated;
- (10) may be excluded from an enclosure under this subtitle;
- (11) has improperly used a temporary pass, license certificate, credential, or identification card issued under this subtitle;
- (12) resides with a person whose license was revoked for cause during the 12 months preceding the date of the present application;
- (13) has failed or refused to furnish a true copy of the application to the commission's district office in the district in which the premises for which the license is sought are located; or
- (14) is engaged or has engaged in activities or practices that are detrimental to the best interests of the public and the sport of horse racing or greyhound racing. (V.A.C.S. Art. 179e, Sec. 7.04.)

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CHAPTER 2026. RACETRACK OPERATION AND PREMISES

SUBCHAPTER A. REGULATION OF RACETRACK

Sec. 2026.001. PLANNING, CONSTRUCTION, AND OPERATION RULES. To preserve and protect the public health, welfare, and safety, the commission shall adopt rules relating to all matters concerning the planning, construction, and operation of racetracks. (V.A.C.S. Art. 179e, Sec. 6.06(a) (part).)

Sec. 2026.002. PREVENTION OF SUBTERFUGE IN RACETRACK OWNERSHIP OR OPERATION. This subtitle shall be liberally construed to prevent subterfuge in the ownership and operation of a racetrack. (V.A.C.S. Art. 179e, Sec. 6.06(d) (part).)

Sec. 2026.003. FINANCIAL DISCLOSURE. (a) The commission by rule shall require that each racetrack association that holds a license for a class 1 racetrack, class 2 racetrack, or greyhound racetrack annually file with the commission a detailed financial statement that:

- (1) contains the names and addresses of all stockholders, members, and owners of any interest in the racetrack;
- (2) indicates compliance during the filing period with Section 2025.101; and
- (3) includes any other information required by the commission.

(b) Each transaction that involves an acquisition or a transfer of a pecuniary interest in the racetrack association must receive prior approval from the commission. A transaction that changes the ownership of the racetrack association requires submission of updated information of the type required to be disclosed under Section 2025.052 and payment of a fee to recover the costs of the criminal background check. (V.A.C.S. Art. 179e, Sec. 6.13.)

Sec. 2026.004. RACING LOCATION. (a) Except as provided by this section, Section 2026.005, or Section 2025.103, a racetrack association may not conduct horse racing or greyhound racing at any place other than the place designated in the license.

(b) If the racetrack or enclosure designated in the license becomes unsuitable for racing because of fire, flood, or other catastrophe, the affected racetrack association, with the prior approval of the commission, may conduct a race meeting or any remaining portion of a meeting temporarily at any other racetrack if the other racetrack license holder:

- (1) is licensed by the commission to conduct the same type of racing as may be conducted by the affected racetrack association; and
- (2) consents to the usage. (V.A.C.S. Art. 179e, Sec. 6.14(a).)

Sec. 2026.005. CHANGE OF RACING LOCATION. On request of a racetrack association, the commission shall amend a racetrack license to change the location of the racetrack if the commission determines that:

- (1) the conduct of race meetings at the proposed new location will be in the public interest;
- (2) there was not a competing applicant for the original license; and
- (3) the racetrack association's desire to change location is not the result of a subterfuge in the original licensing proceeding. (V.A.C.S. Art. 179e, Sec. 6.14(d).)

Sec. 2026.006. LEASE OF RACETRACK PREMISES. (a) The commission by rule may authorize a racetrack association, as lessee, to contract for the lease of a racetrack and the surrounding structures.

(b) The commission may not approve a lease if:

- (1) the lease appears to be a subterfuge to evade compliance with Section 2025.101 or 2025.201;
- (2) the racetrack and surrounding structures do not conform to the rules adopted under this subtitle; or
- (3) the lessee, prospective lessee, or lessor is disqualified from holding a racetrack license.

(c) Each lessor and lessee under this section must comply with the disclosure requirements of Section 2025.052(a)(1). The commission may not approve a lease if the lessor and lessee do not provide the required information. (V.A.C.S. Art. 179e, Sec. 6.07.)

Sec. 2026.007. INAPPROPRIATE OR UNSAFE CONDITIONS; ENFORCEMENT; RULES. (a) The executive director shall issue a notice of violation to a racetrack association on a determination that an inappropriate or unsafe condition exists at a racetrack.

(b) If the executive director determines that an inappropriate or unsafe condition exists at the racetrack, the executive director shall order the racetrack association to take action within a specified period to remedy the inappropriate or unsafe condition. In determining the period for compliance, the executive director shall consider:

- (1) the nature and severity of the problem; and
- (2) the threat to the health, safety, and welfare of race participants, patrons, and animals.

(c) The commission by rule shall require a report of any corrective action taken by a racetrack association in response to an order of the executive director under Subsection (b).

(d) If a racetrack association fails to take action as required under Subsection (b), the executive director shall initiate an enforcement action against the racetrack association. The executive director may rescind any live or simulcast race date of a racetrack association that does not take corrective action within the period set by the executive director.

(e) The commission shall adopt rules implementing this section, including rules:

(1) requiring the report and correction of:

(A) an inappropriate condition on the premises of a racetrack, including a failure to properly maintain the premises, that interferes with the administration of this subtitle; and

(B) a condition on the premises that makes the premises unsafe for a race participant, patron, or animal; and

(2) determining the methods and manner by which the executive director may determine and remedy inappropriate or unsafe conditions on the premises, including the methods and manner in which the executive director may conduct inspections of the premises and remedy emergency situations.

(f) The commission shall adopt rules relating to the commission's review of an action taken under this section by the executive director. A review procedure adopted under this subsection must be consistent with Chapter 2001, Government Code. (V.A.C.S. Art. 179e, Sec. 6.061.)

Sec. 2026.008. SUPERVISION OF CONSTRUCTION, RENOVATION, AND MAINTENANCE; ENFORCEMENT. (a) The commission shall adopt a method of supervising and approving the construction, renovation, or maintenance of any building or improvement on the premises of a racetrack.

(b) The commission shall adopt rules relating to:

(1) the approval of plans and specifications;

(2) the contents of plans and specifications;

(3) the maintenance of records to ensure compliance with approved plans and specifications;

(4) the content and filing of construction progress reports by the racetrack association to the commission;

(5) the inspection by the commission or others;

(6) the method for making a change or amendment to an approved plan or specification; and

(7) any other method of supervision or oversight necessary.

(c) If the commission has grounds to believe that a racetrack association has failed to comply with the requirements of this section, a representative of the racetrack association shall appear before the commission to consider the issue of compliance with rules adopted under this section.

(d) Before a building or improvement may be used by a racetrack association, the commission shall determine whether:

(1) the construction, renovation, or maintenance of the building or improvement was completed in accordance with the approved plans and specifications; and

(2) other commission requirements were met.

(e) If the commission determines that the racetrack association failed to comply with a requirement of this section or a rule adopted under this section, the commission shall initiate an enforcement action against the racetrack association. In addition to any other authorized enforcement action, the commission may rescind any live or simulcast race date of any racetrack association that has failed to comply with the requirements of this section. (V.A.C.S. Art. 179e, Sec. 6.062.)

Sec. 2026.009. RACETRACK SECURITY. A horse racetrack association shall provide adequate security at the racetrack association's racetrack to ensure the safety of the

spectators, employees, and animals. (V.A.C.S. Art. 179e, Sec. 9.07.)

Sec. 2026.010. KENNELS. (a) Each greyhound racetrack association shall:

- (1) contract for a maximum of 18 kennels; and
- (2) provide free kennel rent and schooling.

(b) In contracting with kennel owners for a racetrack, a racetrack association shall ensure that at least 50 percent of the kennels with which the racetrack association contracts are wholly owned by residents of this state.

(c) For purposes of this section, "residents of this state" are individuals who have resided in Texas for the five-year period preceding the date the kennel contract is signed. (V.A.C.S. Art. 179e, Secs. 10.03, 10.06.)

Sec. 2026.011. AUTOMOBILE RACING FACILITY PROHIBITED NEAR RACETRACK IN CERTAIN COUNTIES. An automobile racing facility may not be located within 10,000 feet of a horse or greyhound racetrack that is located in a county with a population of 1.8 million or more. (V.A.C.S. Art. 179e, Sec. 11.10.)

Sec. 2026.012. OTHER LAWFUL BUSINESSES AUTHORIZED. A racetrack association may conduct other lawful business on the racetrack association's grounds. (V.A.C.S. Art. 179e, Sec. 18.03.)

Sec. 2026.013. EMPLOYEE COMPLIANCE. (a) A racetrack is responsible for ensuring that the racetrack's employees comply with this subtitle and commission rules.

(b) The commission may impose disciplinary action against a racetrack for violations of this subtitle and commission rules by the racetrack's employees as provided by Section 2025.202. (V.A.C.S. Art. 179e, Sec. 7.01(c).)

SUBCHAPTER B. EXCLUSION OR EJECTION FROM RACETRACK

Sec. 2026.051. COMMISSION RULES REGARDING EXCLUSION OR EJECTION. The commission shall adopt rules providing for the exclusion or ejection from an enclosure where horse or greyhound races are conducted, or from specified portions of an enclosure, of a person:

- (1) who has engaged in bookmaking, touting, or illegal wagering;
 - (2) whose income is from illegal activities or enterprises;
 - (3) who has been convicted of a violation of this subtitle;
 - (4) who has been convicted of theft;
 - (5) who has been convicted under the penal law of another jurisdiction for committing an act that would have constituted a violation of any rule described in this section;
 - (6) who has committed a corrupt or fraudulent act in connection with horse or greyhound racing or pari-mutuel wagering or who has committed any act tending or intended to corrupt horse or greyhound racing or pari-mutuel wagering;
 - (7) who is under suspension or has been excluded or ejected from a racetrack by the commission or a steward in this state or by a corresponding authority in another state because of corrupt or fraudulent practices or other acts detrimental to racing;
 - (8) who has submitted a forged pari-mutuel ticket or has altered or forged a pari-mutuel ticket for cashing or who has cashed or caused to be cashed an altered, raised, or forged pari-mutuel ticket;
 - (9) who has been convicted of committing a lewd or lascivious act or other crime involving moral turpitude;
 - (10) who is guilty of boisterous or disorderly conduct while inside an enclosure;
 - (11) who is an agent or habitual associate of a person excludable under this section;
- or
- (12) who has been convicted of a felony. (V.A.C.S. Art. 179e, Sec. 13.01.)

Sec. 2026.052. EXCLUSION OR EJECTION FROM ENCLOSURE; HEARING; APPEAL. (a) A person who is excluded or ejected from an enclosure under a commission rule may apply to the commission for a hearing on the question of the applicability of the rule to that person.

(b) An application for a hearing under Subsection (a) constitutes a contested case under Chapter 2001, Government Code. If, after a hearing as provided under Subchapter C of that chapter, the commission determines that the exclusion or ejection was proper:

(1) the commission shall issue an order to that effect and enter the order in the commission's minutes; and

(2) the person shall continue to be excluded from each racetrack association's enclosure.

(c) A person excluded or ejected may appeal an adverse decision of the commission by filing a petition for judicial review in the manner provided by Subchapter G, Chapter 2001, Government Code. Venue for the review is in a district court in Travis County.

(d) The judgment of the court may be appealed as in other civil cases. The person appealing the commission's ruling under this subtitle shall continue to be excluded from all enclosures in this state during the pendency of the appeal. (V.A.C.S. Art. 179e, Secs. 13.02(a), (b), (c) (part), (d).)

Sec. 2026.053. EXCLUSION OR EJECTION BY RACETRACK ASSOCIATION. This subtitle does not prohibit a racetrack association from excluding or ejecting a person from the racetrack association's enclosure for any lawful reason. (V.A.C.S. Art. 179e, Sec. 13.04.)

Sec. 2026.054. CRIMINAL TRESPASS AT ENCLOSURE. A person, for the purposes of Section 30.05, Penal Code, is presumed to have received notice that entry to an enclosure was forbidden if the person:

(1) was excluded or ejected from the enclosure under this subchapter;

(2) possessed, displayed, or used in the enclosure a credential that the person was not authorized to use; or

(3) entered the enclosure using a falsified credential. (V.A.C.S. Art. 179e, Sec. 13.03.)

SUBCHAPTER C. CLASSIFICATION OF HORSE RACETRACKS

Sec. 2026.101. CLASSIFICATION. A horse racetrack is classified as:

(1) a class 1 racetrack;

(2) a class 2 racetrack;

(3) a class 3 racetrack; or

(4) a class 4 racetrack. (V.A.C.S. Art. 179e, Sec. 6.02(a).)

Sec. 2026.102. CLASS 1 RACETRACK. (a) A class 1 racetrack is a racetrack on which live racing is conducted for a number of days in a calendar year, as determined by the commission under Subchapter A, Chapter 2029.

(b) A class 1 racetrack may operate only in a county with a population of not less than 1.3 million, or in a county adjacent to such a county.

(c) Not more than three class 1 racetracks may be licensed and operated in this state. (V.A.C.S. Art. 179e, Sec. 6.02(b).)

Sec. 2026.103. CLASS 2 RACETRACK. (a) A class 2 racetrack is a racetrack on which live racing is conducted for a number of days, as determined by the commission under Subchapter A, Chapter 2029.

(b) A class 2 racetrack is entitled to conduct 60 days of live racing in a calendar year. A racetrack association may request additional or fewer days of live racing. If, after receipt of a request from a racetrack association, the commission determines additional or fewer days to be economically feasible and in the best interest of this state and the racing industry, the commission shall grant the request.

(c) The commission may permit a racetrack association that holds a class 2 racetrack license and that is located in a national historic district to conduct horse races for more than 60 days in a calendar year. (V.A.C.S. Art. 179e, Sec. 6.02(c).)

Sec. 2026.104. CLASS 3 RACETRACK. (a) A class 3 racetrack is a racetrack operated by a county or a nonprofit fair under Chapter 2032.

(b) A racetrack association that holds a class 3 racetrack license and that conducted horse races in 1986 may conduct live races for a number of days not to exceed 16 days in a calendar year on the dates selected by the racetrack association. (V.A.C.S. Art. 179e, Sec. 6.02(d).)

Sec. 2026.105. CLASS 4 RACETRACK. (a) A class 4 racetrack is a racetrack operated by a county fair under Section 2032.002.

(b) A racetrack association that holds a class 4 racetrack license may conduct live races for a number of days not to exceed five days in a calendar year on dates selected by the racetrack association and approved by the commission. (V.A.C.S. Art. 179e, Sec. 6.02(g).)

Sec. 2026.106. WAIVER OR DEFERRAL OF CERTAIN STANDARDS FOR CLASS 4 RACETRACK. (a) In considering an application for a class 4 racetrack license, except as provided by Subsection (b), the commission may waive or defer compliance with the commission's standards regarding the physical facilities or operations of a horse racetrack.

(b) The commission may not waive or defer compliance with standards that relate to the testing of horses or license holders for the presence of a prohibited substance, including a prohibited drug or chemical.

(c) If the commission defers compliance, the commission shall, when granting the application, establish a schedule under which the license holder must comply with the standards. (V.A.C.S. Art. 179e, Sec. 6.04(d).)

Sec. 2026.107. CALCULATION OF LIVE AND SIMULCAST RACE DATES. (a) For purposes of this subchapter, live race dates are counted separately from the dates on which the racetrack association presents simulcast races.

(b) The number of race dates allowed under this subchapter relates only to live race dates. A racetrack may present simulcast races on other dates as approved by the commission. (V.A.C.S. Art. 179e, Secs. 6.02(e), (f).)

SUBCHAPTER D. CONCESSION, MANAGEMENT, OR TOTALISATOR CONTRACTS; SECURITY PLANS

Sec. 2026.151. COMMISSION APPROVAL REQUIRED. (a) All concession, management, and totalisator contracts submitted by an applicant under Section 2025.054 must have the prior approval of the commission.

(b) The commission shall refuse to approve a concession or management contract if, in the sole discretion of the commission, the background checks conducted under Section 2025.056 reveal anything that might be detrimental to the public interest or the racing industry. (V.A.C.S. Art. 179e, Secs. 6.03(a) (part), 6.031 (part).)

Sec. 2026.152. COMMISSION REVIEW OF SECURITY PLANS AND CERTAIN CONTRACTS. (a) On receipt of a plan for the security of a racetrack, or a copy of a concession, management, or totalisator contract for review under Section 2026.151, the commission shall review the security plan or contract in an executive session. Documents submitted by an applicant to the commission under this section or Section 2025.052 or 2025.054 are subject to discovery in a suit brought under this subtitle but are not public records and are not subject to Chapter 552, Government Code.

(b) In reviewing and approving contracts under Subsection (a), the commission shall attempt to ensure the involvement of minority-owned businesses whenever possible. (V.A.C.S. Art. 179e, Sec. 6.03(b).)

Sec. 2026.153. MANAGEMENT CONTRACT: REQUIREMENTS AND LIMITATIONS. (a) A person awarded a management contract to operate a racetrack must meet all of the requirements for a license under Sections 2025.101 and 2025.201.

(b) The commission may not approve a management contract to operate or manage a racetrack owned by a governmental entity unless the racetrack license holder is an owner of the entity that proposes to manage the racetrack. (V.A.C.S. Art. 179e, Secs. 6.06(g), 7.02(e).)

CHAPTER 2027. WAGERING

SUBCHAPTER A. PARI-MUTUEL WAGERING

- Sec. 2027.001. PARI-MUTUEL WAGERING RULES
- Sec. 2027.002. WAGERING RESTRICTIONS
- Sec. 2027.003. WAGERING COMPUTATION EQUIPMENT
- Sec. 2027.004. AUTOMATED TELLER MACHINES: RULES, LIMITATIONS, AND FEES
- Sec. 2027.005. TICKET INFORMATION RULES
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- Sec. 2027.051. SIMULCAST WAGERING RULES
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- Sec. 2027.101. RULES PROHIBITING WAGERING BY MINOR AND VIEWING BY UNACCOMPANIED CHILD
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CHAPTER 2027. WAGERING

SUBCHAPTER A. PARI-MUTUEL WAGERING

Sec. 2027.001. PARI-MUTUEL WAGERING RULES. (a) The commission shall adopt rules to regulate wagering on horse races and greyhound races under the system known as pari-mutuel wagering.

(b) Rules adopted under this subtitle must include rules to:

- (1) regulate wagering by a person licensed under this subtitle;
- (2) prohibit wagering by a commission employee;
- (3) prohibit a racetrack association from accepting a wager made by telephone; and
- (4) prohibit a racetrack association from accepting a wager made on credit.

(c) Commission rules adopted under this subtitle must be written and updated to ensure maximum enforceability. (V.A.C.S. Art. 179e, Secs. 11.01(a) (part), (b), 11.04(a) (part), (b), (c) (part).)

Sec. 2027.002. WAGERING RESTRICTIONS. (a) Wagering may be conducted only by a racetrack association within the racetrack association's enclosure.

(b) A person may not accept, in person, by telephone, or over the Internet, a wager for a horse or greyhound race conducted inside or outside this state from a person in this state unless the wager is authorized under this subtitle.

(c) Only a person inside an enclosure where both live and simulcast race meetings are authorized may wager on the result of a live or simulcast race presented by a racetrack association in accordance with commission rules.

(d) Except as provided by Subsection (c), a person may not place, in person, by telephone, or over the Internet, a wager for a horse or greyhound race conducted inside or outside this state. (V.A.C.S. Art. 179e, Secs. 11.01(a) (part), 11.04(a) (part).)

Sec. 2027.003. **WAGERING COMPUTATION EQUIPMENT.** (a) Wagering authorized under this chapter may be calculated only by state-of-the-art computational equipment approved by the commission.

(b) The commission may not require the use of a particular make of equipment. (V.A.C.S. Art. 179e, Sec. 11.02.)

Sec. 2027.004. **AUTOMATED TELLER MACHINES: RULES, LIMITATIONS, AND FEES.** (a) The commission shall:

(1) adopt rules providing for the use of automated teller machines in an enclosure; and

(2) limit the use of automated teller machines by allowing a person access only to the person's checking account at a bank or other financial institution.

(b) A racetrack association that allows an automated teller machine in an enclosure as provided by Subsection (a) shall collect a fee of \$1 for each transaction authorized under that subsection and forward the fee to the commission.

(c) The commission shall:

(1) adopt rules providing for collection, reporting, and auditing of the transaction fee authorized under Subsection (b); and

(2) deposit the fee collected under Subsection (b) to the credit of the general revenue fund. (V.A.C.S. Art. 179e, Secs. 11.04(c) (part), (e).)

Sec. 2027.005. **TICKET INFORMATION RULES.** The commission by rule shall prescribe the information to be printed on each pari-mutuel ticket. (V.A.C.S. Art. 179e, Sec. 11.03.)

Sec. 2027.006. **CLAIM AFTER RACE MEETING.** (a) A person who claims to be entitled to any part of a distribution from a pari-mutuel pool may, not later than the first anniversary of the day the ticket was purchased, file with the appropriate racetrack association a claim for the money accompanied by a substantial portion of the pari-mutuel ticket sufficient to identify the racetrack association, race, horse or greyhound involved, amount wagered, and type of ticket.

(b) A person who claims to be entitled to money from a pari-mutuel voucher may before the first anniversary of the day the voucher was issued file with the appropriate racetrack association a claim for the money accompanied by a substantial portion of the pari-mutuel voucher sufficient to identify the racetrack association, serial number, date issued, and amount of the voucher.

(c) If the claimant satisfactorily establishes a right to distribution from a pari-mutuel pool, the racetrack association shall pay the amount due the claimant.

(d) If the racetrack association refuses to pay a claimant who has established satisfactorily a right to distribution from a pari-mutuel pool, the claimant may appeal to the commission under procedures prescribed by commission rule. (V.A.C.S. Art. 179e, Sec. 11.07.)

SUBCHAPTER B. SIMULCAST WAGERING

Sec. 2027.051. **SIMULCAST WAGERING RULES.** The commission shall adopt rules to license and regulate pari-mutuel wagering on:

(1) races conducted in this state and simulcast to in-state racetrack associations or out-of-state receiving locations; and

(2) races conducted out-of-state and simulcast to in-state racetrack associations. (V.A.C.S. Art. 179e, Sec. 11.011(a).)

Sec. 2027.052. **CONSTRUCTION OF LAWS RELATED TO SIMULCAST RACES.**

(a) This subtitle may not be construed to allow wagering in this state on simulcast races

at any location other than a racetrack licensed under this subtitle that has been granted live race dates by the commission.

(b) This subtitle may not be construed to prohibit wagering on:

- (1) a simulcast horse race at a greyhound racetrack in this state; or
- (2) a simulcast greyhound race at a horse racetrack in this state. (V.A.C.S. Art. 179e, Secs. 11.011(f), (g) (part).)

Sec. 2027.053. COMMISSION APPROVAL REQUIRED FOR PARI-MUTUEL POOL INCLUSION. (a) With commission approval:

(1) wagers accepted on a simulcast race by any out-of-state receiving location may be included in the pari-mutuel pool for the race at the sending in-state racetrack association; and

(2) wagers accepted by an in-state racetrack association on a race simulcast from out-of-state may be included in the pari-mutuel pools for the race at the out-of-state sending track.

(b) The commission may adopt rules necessary to facilitate the interstate commingling of pari-mutuel pools as provided by Subsection (a).

(c) The racetrack where the wager is made is responsible for reporting and remitting this state's share of the pari-mutuel pool. (V.A.C.S. Art. 179e, Secs. 11.011(b), (c), (d), (e).)

Sec. 2027.054. REQUIREMENTS AND LIMITATIONS ON SIMULCAST RACES.

(a) A horse racetrack may not be required to accept a greyhound simulcast signal. A horse racetrack that offers wagering on interstate greyhound simulcast races must offer wagering on all Texas greyhound races made available for simulcast wagering.

(b) A greyhound racetrack may not be required to accept a horse simulcast signal. A greyhound racetrack that offers wagering on interstate horse simulcast races must offer wagering on all Texas horse races made available for simulcast wagering.

(c) The commission may not approve wagering on an interstate simulcast race unless the receiving location consents to wagering on interstate simulcast races at all other receiving locations in this state. (V.A.C.S. Art. 179e, Secs. 11.011(g) (part), (j), (m).)

Sec. 2027.055. CONTRACT REQUIRED FOR SIMULCAST RACES. (a) Except as provided by this subchapter, a horse racetrack may offer wagering on interstate greyhound race simulcast signals only as provided by a contract with the nearest greyhound racetrack. If an agreement between the racetracks cannot be reached by October 1 of the year preceding the calendar year in which the simulcasting is to occur, the greyhound racetrack may purchase and offer wagering on interstate horse race simulcast signals and shall pay to the nearest greyhound racetrack the amounts specified under Section 2028.202(c)(1).

(b) Except as provided by this subchapter, a greyhound racetrack may offer wagering on interstate horse race simulcast signals only as provided by a contract with the nearest Class 1 horse racetrack. If an agreement between the racetracks cannot be reached by October 1 of the year preceding the calendar year in which the simulcasting is to occur, the greyhound racetrack may purchase and offer wagering on interstate horse race simulcast signals and shall pay to the nearest Class 1 horse racetrack the amounts specified in Section 2028.202(b)(1).

(c) Wagering on a simulcast greyhound race at a horse racetrack that conducted its inaugural meet within 12 months of September 1, 1997, or at an operational horse racetrack within 60 miles of that racetrack may be conducted only in accordance with an agreement between the racetracks. (V.A.C.S. Art. 179e, Secs. 11.011(h), (i), (k).)

Sec. 2027.056. SIMULCAST CONTRACT TERMS AND ARBITRATION. (a) Notwithstanding any other provisions of law, a greyhound racetrack association and the state greyhound breed registry shall by contract agree that each simulcast contract to which the greyhound racetrack association is a party, including a simulcast contract with a horse racetrack association or with another greyhound racetrack association, include terms that provide adequately for:

- (1) the development of greyhound racing, breeding, and purses; and
- (2) any actual or potential loss of live racing handle based on the racetrack association's historical live racing schedule and handle in this state.
- (b) If a greyhound racetrack association and the state greyhound breed registry fail to reach an agreement under Subsection (a), the racetrack association or the breed registry may submit the contract negotiations for binding arbitration under Chapter 171, Civil Practice and Remedies Code, and commission rules.
- (c) The arbitration must be conducted by a board of three arbitrators as follows:
 - (1) one arbitrator appointed by the greyhound racetrack association;
 - (2) one arbitrator appointed by the state greyhound breed registry; and
 - (3) one arbitrator appointed by the arbitrators appointed under Subdivisions (1) and (2).
- (d) A greyhound racetrack association and the state greyhound breed registry shall each pay its own arbitration expenses. The greyhound racetrack association and the state greyhound breed registry shall equally pay the arbitrator fees and costs. (V.A.C.S. Art. 179e, Sec. 11.011(l) (part).)

SUBCHAPTER C. WAGERING PROHIBITIONS

Sec. 2027.101. RULES PROHIBITING WAGERING BY MINOR AND VIEWING BY UNACCOMPANIED CHILD. (a) The commission shall adopt rules to prohibit:

- (1) wagering by a minor; and
 - (2) a child from entering the viewing section of a racetrack unless accompanied by the child's parent or guardian.
 - (b) The rules adopted under Subsection (a) may except any conduct described as an affirmative defense by Section 2033.017. (V.A.C.S. Art. 179e, Sec. 11.06.)
- Sec. 2027.102. UNLAWFUL WAGERING. (a) A person may not wager on the result of a horse or greyhound race in this state except as authorized by this subtitle.
- (b) A person other than a racetrack association may not accept from a Texas resident while the resident is in this state a wager on the result of a horse or greyhound race conducted inside or outside this state. (V.A.C.S. Art. 179e, Sec. 11.05.)

CHAPTER 2028. PARI-MUTUEL POOLS, PURSES, AND FEES

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- Sec. 2028.001. ADOPTION OF REQUIREMENTS OR OTHER PERFORMANCE MEASURES
- Sec. 2028.002. INDEPENDENT AUDIT REPORT; RECORDS REVIEW
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- Sec. 2028.051. SET-ASIDE FROM LIVE PARI-MUTUEL POOL

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- Sec. 2028.102. HORSE RACETRACK ASSOCIATION SET-ASIDES FOR PURSES; PURSE ACCOUNTS
- Sec. 2028.103. SET-ASIDE FOR TEXAS-BRED PROGRAM
- Sec. 2028.104. RACETRACK ASSOCIATION COMMISSION
- Sec. 2028.105. ALLOCATION OF BREAKAGE

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CHAPTER 2028. PARI-MUTUEL POOLS, PURSES, AND FEES

**SUBCHAPTER A. COMMISSION OVERSIGHT OF PARI-MUTUEL RACING
FUNDS**

Sec. 2028.001. ADOPTION OF REQUIREMENTS OR OTHER PERFORMANCE MEASURES. (a) For any organization that receives funds generated by live or simulcast pari-mutuel racing, the commission shall adopt reporting, monitoring, and auditing requirements or other appropriate performance measures for:

(1) any funds distributed to or used by the organization; and

(2) any function or service provided by the expenditure of the funds described by Subdivision (1).

(b) The commission shall adopt the requirements or performance measures after consultation with the affected organization. In adopting the rules, the commission shall consider the concerns of the affected organization. (V.A.C.S. Art. 179e, Secs. 6.092(a), (b).)

Sec. 2028.002. INDEPENDENT AUDIT REPORT; RECORDS REVIEW. (a) An organization that receives funds generated by live or simulcast pari-mutuel racing shall annually file with the commission a copy of an audit report prepared by an independent certified public accountant. The audit must include a verification of any performance report sent to or required by the commission.

(b) The commission may review any record or book of an organization that submits an independent audit to the commission as the commission determines necessary to confirm or further investigate the findings of an audit or report. (V.A.C.S. Art. 179e, Secs. 6.092(c), (d).)

Sec. 2028.003. SUSPENSION AND WITHHOLDING OF FUNDS. The commission by rule may suspend or withhold funds from an organization:

(1) that the commission determines has failed to comply with the requirements or performance measures adopted under Section 2028.001; or

(2) for which material questions on the use of funds by the organization are raised following an independent audit or other report to the commission. (V.A.C.S. Art. 179e, Sec. 6.092(e).)

SUBCHAPTER B. GENERAL DEDUCTIONS FROM LIVE PARI-MUTUEL POOL

Sec. 2028.051. SET-ASIDE FROM LIVE PARI-MUTUEL POOL. A horse or greyhound racetrack association shall set aside for this state from each live pari-mutuel pool at the racetrack an amount equal to:

(1) one percent of each live pari-mutuel pool from the total amount of all of the racetrack association's live pari-mutuel pools in a calendar year in excess of \$100 million but less than \$200 million;

(2) two percent of each live pari-mutuel pool from the total amount of all of the racetrack association's live pari-mutuel pools in a calendar year in excess of \$200 million but less than \$300 million;

(3) three percent of each live pari-mutuel pool from the total amount of all of the racetrack association's live pari-mutuel pools in a calendar year in excess of \$300 million but less than \$400 million;

(4) four percent of each live pari-mutuel pool from the total amount of all of the racetrack association's live pari-mutuel pools in a calendar year in excess of \$400 million but less than \$500 million; and

(5) five percent of each live pari-mutuel pool from the total amount of all of the racetrack association's live pari-mutuel pools in a calendar year in excess of \$500 million. (V.A.C.S. Art. 179e, Sec. 6.093(b).)

SUBCHAPTER C. DISPOSITION OF HORSE PARI-MUTUEL POOLS AND OTHER AMOUNTS RELATED TO HORSE RACING

Sec. 2028.101. DEDUCTIONS FROM HORSE PARI-MUTUEL POOLS. (a) A horse racetrack association shall deduct an amount from each pari-mutuel pool to be distributed as provided by Sections 2028.102, 2028.103, and 2028.104.

(b) The total maximum deduction under Subsection (a) is:

(1) 18 percent from a regular wagering pool;

(2) 21 percent from a multiple two wagering pool; and

(3) 25 percent from a multiple three wagering pool. (V.A.C.S. Art. 179e, Sec. 6.08(a).)

Sec. 2028.102. HORSE RACETRACK ASSOCIATION SET-ASIDES FOR PURSES; PURSE ACCOUNTS. (a) A horse racetrack association shall set aside for purses an amount not less than:

(1) for live pari-mutuel pools:

(A) seven percent of a live regular wagering pool or live multiple two wagering pool; and

(B) 8.5 percent of a live multiple three wagering pool; and

(2) for simulcast pari-mutuel pools from the takeout of the sending track:

(A) 38.8 percent of the regular wagering pool;

(B) 33.3 percent of the multiple two wagering pool; and

(C) 34 percent of the multiple three wagering pool.

(b) If the cost of the simulcast signal exceeds five percent of the simulcast handle, the receiving horse racetrack association shall split the cost of the signal in excess of five percent evenly with the horsemen's organization by allocating that cost against the purse money derived from that simulcast signal.

(c) The horse racetrack association shall:

- (1) transfer the amount set aside for purses from any live and simulcast pool; and
- (2) deposit the amounts in purse accounts maintained by breed by the horsemen's organization in one or more federally insured depositories.

(d) Legal title to purse accounts is vested in the horsemen's organization. The horsemen's organization may contract with a horse racetrack association to manage and control the purse accounts and to make disbursements from the purse accounts:

- (1) to an owner whose horse won a purse;
 - (2) to the horsemen's organization for the organization's expenses; or
 - (3) for other disbursements as provided by contract between the horsemen's organization and the horse racetrack association.
- (e) A horse racetrack association may pay a portion of the revenue set aside under this section to an organization recognized under Section 2023.051, as provided by a contract approved by the commission. (V.A.C.S. Art. 179e, Sec. 6.08(b).)

Sec. 2028.103. SET-ASIDE FOR TEXAS-BRED PROGRAM. (a) A horse racetrack association shall set aside for the Texas-bred program an amount equal to one percent of a live multiple two wagering pool and a live multiple three wagering pool. From the set-aside amounts:

- (1) two percent shall be set aside for purposes of Subchapter F, Chapter 88, Education Code; and
- (2) the remaining amount shall be allocated as follows:
 - (A) 10 percent may be used by the appropriate state horse breed registry for administration; and
 - (B) the remainder shall be used for awards.

(b) The amount set aside under Subsection (a) is in addition to any money received from the breakage.

(c) The commission shall adopt rules relating to the accounting, auditing, and distribution of all amounts set aside for the Texas-bred program under this subchapter. (V.A.C.S. Art. 179e, Secs. 6.08(d), (f), (g).)

Sec. 2028.104. RACETRACK ASSOCIATION COMMISSION. After allocation of the amounts specified in Sections 2028.102 and 2028.103, the horse racetrack association shall retain as the racetrack association's commission the remainder of the amount deducted under Section 2028.101 from a regular wagering pool, a multiple two wagering pool, or a multiple three wagering pool. (V.A.C.S. Art. 179e, Sec. 6.08(e).)

Sec. 2028.105. ALLOCATION OF BREAKAGE. (a) A horse racetrack association shall allocate two percent of the breakage from a pari-mutuel pool for purposes of Subchapter F, Chapter 88, Education Code. The remaining 98 percent of the breakage constitutes "total breakage" and must be allocated as provided by Subsections (b), (c), and (d).

(b) A horse racetrack association shall pay to the commission for use by the appropriate state horse breed registry, subject to commission rules, 10 percent of the total breakage from a live pari-mutuel pool or a simulcast pari-mutuel pool. The appropriate state horse breed registries are as follows:

- (1) the Texas Thoroughbred Breeders Association for Thoroughbred horses;
- (2) the Texas Quarter Horse Association for quarter horses;
- (3) the Texas Appaloosa Horse Club for Appaloosa horses;
- (4) the Texas Arabian Breeders Association for Arabian horses; and
- (5) the Texas Paint Horse Breeders Association for paint horses.

(c) A horse racetrack association shall retain 10 percent of the total breakage from a live pari-mutuel pool or a simulcast pari-mutuel pool to be used in stakes races restricted to accredited Texas-bred horses.

(d) The appropriate state horse breed registry shall pay the remaining 80 percent of the total breakage as follows:

- (1) 40 percent to the owners of the accredited Texas-bred horses that finish first, second, or third;
- (2) 40 percent to the breeders of accredited Texas-bred horses that finish first, second, or third; and
- (3) 20 percent to the owner of the stallion standing in this state at the time of conception whose Texas-bred get finish first, second, or third.

(e) If a share of the breakage cannot be distributed to the person entitled to the share, the appropriate state horse breed registry shall retain that share.

(f) For purposes of this section:

(1) "Breeder" means a person who, according to the rules of the appropriate state horse breed registry, is the breeder of the accredited Texas-bred horse.

(2) "Stallion owner" means a person who is owner of record, at the time of conception, of the stallion that sired the accredited Texas-bred horse. (V.A.C.S. Art. 179e, Secs. 6.08(h), (i), (j), (k) (part), (m).)

Sec. 2028.106. LIMITATION ON PURSE DEDUCTION. (a) In this section, "horse owner" means a person who is owner of record of an accredited Texas-bred horse at the time of a race.

(b) A horse racetrack association may not deduct or withhold any percentage of a purse from the account into which the purse paid to a horse owner is deposited for membership payments, dues, assessments, or any other payments to an organization except an organization chosen by the horse owner. (V.A.C.S. Art. 179e, Secs. 6.08(k) (part), (l).)

Sec. 2028.107. LIMITATION ON INCENTIVES AWARDED TO CERTAIN HORSES. An accredited Texas-bred Thoroughbred or Arabian horse described by Section 2021.003(50)(C) is eligible for one-half of the incentives awarded under Sections 2028.103(a) and 2028.105(d)(2). The appropriate state horse breed registry shall retain the remaining portion for general distribution at the same meeting in accordance with Sections 2028.103(a) and 2028.105(d). (V.A.C.S. Art. 179e, Sec. 6.08(n).)

SUBCHAPTER D. DISPOSITION OF GREYHOUND PARI-MUTUEL POOLS AND OTHER AMOUNTS RELATED TO GREYHOUND RACING

Sec. 2028.151. APPLICATION OF SUBCHAPTER. The deductions and allocations made under this subchapter apply to live pari-mutuel pools. (V.A.C.S. Art. 179e, Sec. 6.09(e).)

Sec. 2028.152. DISTRIBUTION OF PARI-MUTUEL POOL. Each greyhound racetrack association shall distribute all money deposited in any pari-mutuel pool to the winning ticket holders who present tickets for payment not later than the 60th day after the closing day of the greyhound race meeting at which the pool was formed less:

- (1) an amount paid as a commission of 18 percent of the total deposits in pools resulting from regular win, place, and show wagering;
- (2) an amount not to exceed 21 percent of the total deposits in pools resulting from multiple two wagering; and
- (3) an amount not to exceed 25 percent of the total deposits in pools resulting from multiple three wagering. (V.A.C.S. Art. 179e, Sec. 6.09(a).)

Sec. 2028.153. STATE FEE. On each racing day, a greyhound racetrack association shall pay to the comptroller the fee due this state. (V.A.C.S. Art. 179e, Sec. 6.09(c).)

Sec. 2028.154. BREAKAGE. (a) A greyhound racetrack association shall pay 50 percent of the breakage to the appropriate state greyhound breed registry. Of that breakage percentage:

- (1) 25 percent is to be used in stakes races; and

(2) 25 percent of that total breakage from a live pari-mutuel pool or a simulcast pari-mutuel pool is to be paid to the commission for use by the state greyhound breed registry, subject to commission rules.

(b) The commission by rule shall require the state greyhound breed registry to award a grant, in an amount equal to two percent of the money paid under Subsection (a)(2), to a person for the rehabilitation of greyhounds or to locate homes for greyhounds. (V.A.C.S. Art. 179e, Secs. 6.09(d), (f).)

Sec. 2028.155. ALLOCATION OF PURSE IN GREYHOUND RACES. (a) The purse in a greyhound race may not be less than 4.7 percent of the total deposited in each pari-mutuel pool.

(b) Of the portion of a purse allocated to a greyhound:

- (1) 35 percent shall be paid directly to the greyhound owner; and
- (2) the balance shall be paid to the greyhound's contract kennel as provided by commission rules. (V.A.C.S. Art. 179e, Sec. 6.11.)

SUBCHAPTER E. DISTRIBUTION OF SIMULCAST PARI-MUTUEL POOLS

Sec. 2028.201. RULES. The commission shall adopt rules relating to this subchapter and the oversight of the amounts allocated under Sections 2028.202(b) and (c). (V.A.C.S. Art. 179e, Sec. 6.091(j).)

Sec. 2028.202. REQUIRED DISTRIBUTIONS. (a) A racetrack association shall distribute from the total amount deducted as provided by Sections 2028.101 and 2028.152 from each simulcast pari-mutuel pool and each simulcast cross-species pari-mutuel pool the following shares:

- (1) an amount equal to one percent of each simulcast pari-mutuel pool as the amount set aside for this state;
- (2) an amount equal to 1.25 percent of each simulcast cross-species pari-mutuel pool as the amount set aside for this state;
- (3) for a horse racetrack association, an amount equal to one percent of a multiple two wagering pool or multiple three wagering pool as the amount set aside for the Texas-bred program to be used as provided by Section 2028.103;
- (4) for a greyhound racetrack association, an amount equal to one percent of a multiple two wagering pool or a multiple three wagering pool as the amount set aside for the Texas-bred program for greyhound races, to be distributed and used in accordance with commission rules adopted to promote greyhound breeding in this state; and
- (5) the remainder as the amount set aside for purses, expenses, the sending track, and the receiving location under a contract approved by the commission between the sending track and the receiving location.

(b) From the total amount deducted under Subsection (a), a greyhound racetrack association that receives an interstate cross-species simulcast signal shall distribute the following amounts from each pari-mutuel pool wagered on the signal at the racetrack:

- (1) a fee of 1.5 percent to be paid to the racetrack in this state sending the signal;
- (2) a purse in the amount of 0.75 percent to be paid to the official state horse breed registry for Thoroughbred horses for use as purses at racetracks in this state;
- (3) a purse in the amount of 0.75 percent to be paid to the official state horse breed registry for quarter horses for use as purses at racetracks in this state; and
- (4) a purse of 4.5 percent to be escrowed with the commission for purses in the manner provided by Section 2028.204.

(c) From the total amount deducted under Subsection (a), a horse racetrack association that receives an interstate cross-species simulcast signal shall distribute the following amounts from each pool wagered on the signal at the racetrack:

- (1) a fee of 1.5 percent to be paid to the racetrack in this state sending the signal; and

(2) a purse in the amount of 5.5 percent to be paid to the official state greyhound breed registry for use at racetracks in this state.

(d) The official state greyhound breed registry may use not more than 20 percent of the amount described by Subsection (c)(2) to administer that subsection.

(e) A racetrack association offering wagering on an intrastate cross-species simulcast signal shall send the purse amount specified under Subsection (b)(4) or (c)(2), as appropriate, to the racetrack conducting the live race that is being simulcast. (V.A.C.S. Art. 179e, Secs. 6.091(a), (c), (d), (h).)

Sec. 2028.203. REIMBURSEMENT FOR SIMULCAST SIGNAL COST. If a racetrack association purchases an interstate simulcast signal and the signal cost exceeds five percent of the pari-mutuel pool, the commission, from the escrowed purse account under Section 2028.202(b)(4), shall reimburse the racetrack association an amount equal to one-half of the signal cost that exceeds five percent of the pari-mutuel pool. (V.A.C.S. Art. 179e, Sec. 6.091(g).)

Sec. 2028.204. ALLOCATION OF ESCROWED PURSES. (a) A greyhound racetrack association shall deposit into an escrow account in the commission's registry the purse set aside under Section 2028.202(b)(4).

(b) Any horse racetrack association in this state may apply to the commission for receipt of all or part of the escrowed purse account for use as purses. The commission shall determine the horse racetrack associations to be allocated money from the escrowed purse account and the percentages to be allocated, taking into consideration purse levels, racing opportunities, and the financial status of the requesting racetrack association. (V.A.C.S. Art. 179e, Sec. 6.091(e) (part).)

Sec. 2028.205. ADDITIONAL ALLOCATIONS FOR CERTAIN RACETRACKS. (a) In addition to money allocated under Section 2028.204, a horse racetrack association operating a racetrack that is located not more than 75 miles from a greyhound racetrack that offers wagering on a cross-species simulcast signal and that sends the cross-species simulcast signal to the greyhound racetrack may apply to the commission for an allocation of up to 20 percent of the money in the escrowed purse account that is attributable to the wagering on a cross-species simulcast signal at the greyhound racetrack.

(b) If the applying horse racetrack association can prove to the commission's satisfaction that the racetrack association's handle has decreased directly due to wagering on an interstate cross-species simulcast signal at a greyhound racetrack located not more than 75 miles from the applying racetrack association, the commission shall allocate amounts from the escrowed purse account as the commission considers appropriate to compensate the racetrack association for the decrease. The amounts allocated may not exceed 20 percent of the money in the escrowed purse account that is attributable to the wagering on the interstate cross-species simulcast signal at the greyhound racetrack.

(c) Money allocated by the commission under this section may be used by the racetrack association for any purpose. (V.A.C.S. Art. 179e, Sec. 6.091(f).)

Sec. 2028.206. HOST FEE. A racetrack association conducting a live race that is being simulcast may charge the receiving racetrack a host fee in addition to the amounts described in this subchapter. (V.A.C.S. Art. 179e, Sec. 6.091(i).)

SUBCHAPTER F. COUNTY AND MUNICIPAL FEES

Sec. 2028.251. ADMISSION FEES AUTHORIZED. (a) A commissioners court may collect a fee not to exceed 15 cents as an admission fee to a racetrack located in the county.

(b) If the racetrack is located in a municipality, the governing body of the municipality may collect a fee not to exceed 15 cents as an admission fee to the racetrack.

(c) If the racetrack is not located in a municipality, the commissioners court may collect an additional fee not to exceed 15 cents as an admission fee to a racetrack located in the county for allocation among the municipalities in the county.

(d) If the racetrack is not located in a municipality, the commissioners court on

request of the governing bodies of a majority of the municipalities in the county shall collect the additional fee. Allocation of the fees must be based on the population of the municipalities in the county. (V.A.C.S. Art. 179e, Sec. 6.17(a).)

Sec. 2028.252. **ADDITIONAL FEES FOR CERTAIN COUNTIES.** If the racetrack is a class 1 racetrack, the commissioners court of each county with a population of not less than 1.3 million adjacent to the county in which the racetrack is located may each collect fees equal to the fees authorized by Section 2028.251. (V.A.C.S. Art. 179e, Sec. 6.17(b).)

Sec. 2028.253. **PROCEDURES FOR FEE COLLECTION.** (a) A commissioners court by order may establish procedures for the collection of the fees under Section 2028.251.

(b) The procedures may require a racetrack association to keep records and file the reports considered necessary by the commissioners court. (V.A.C.S. Art. 179e, Sec. 6.17(c).)

Sec. 2028.254. **OTHER FEES AND TAXES PROHIBITED.** A county or municipality may not assess or collect any other license fee, privilege tax, excise tax, or racing fee on admissions to, or wagers placed at, a racetrack. (V.A.C.S. Art. 179e, Sec. 6.17(d).)

CHAPTER 2029. ALLOCATION OF RACING DAYS

SUBCHAPTER A. HORSE RACING

Sec. 2029.001. **ALLOCATION OF HORSE RACING DAYS; PROHIBITED RACING DAYS**

Sec. 2029.002. **CHARITY DAYS**

Sec. 2029.003. **ACCESS TO RACES**

SUBCHAPTER B. GREYHOUND RACING

Sec. 2029.051. **NUMBER OF GREYHOUND RACING DAYS**

Sec. 2029.052. **CHARITY DAYS**

Sec. 2029.053. **SUBSTITUTE RACING DAYS OR ADDITIONAL RACES**

CHAPTER 2029. ALLOCATION OF RACING DAYS

SUBCHAPTER A. HORSE RACING

Sec. 2029.001. **ALLOCATION OF HORSE RACING DAYS; PROHIBITED RACING DAYS.** (a) The commission shall allocate the live and simulcast horse racing days for the conduct of live and simulcast racing at each racetrack.

(b) In allocating race dates under this section, the commission shall consider live race dates separately from simulcast race dates.

(c) The commission may prohibit racing on Sunday unless the prohibition would conflict with another provision of this subtitle. (V.A.C.S. Art. 179e, Sec. 8.01 (part).)

Sec. 2029.002. **CHARITY DAYS.** (a) The commission shall grant to each racetrack association additional horse racing days during a horse race meeting to be conducted as charity days. The commission shall grant to each class 1 racetrack and to each class 2 racetrack at least two and not more than five additional days.

(b) Each class 1 and class 2 racetrack shall conduct charity race days in accordance with this section.

(c) The commission shall ensure that races conducted by a racetrack association on a charity day are comparable in all respects, including the generation of revenue, to races conducted by that racetrack association on any other horse racing day.

(d) The commission shall adopt rules relating to the conduct of charity days. (V.A.C.S. Art. 179e, Sec. 8.02.)

Sec. 2029.003. **ACCESS TO RACES.** (a) Each racetrack shall provide reasonable access to races for all breeds of horses as determined by the racetrack association through negotiations with the representative state horse breed registry with the final approval of the commission.

(b) In granting approval under Subsection (a), the commission shall consider:

- (1) the availability of competitive horses;
- (2) economic feasibility; and
- (3) public interest. (V.A.C.S. Art. 179e, Sec. 8.01 (part).)

SUBCHAPTER B. GREYHOUND RACING

Sec. 2029.051. NUMBER OF GREYHOUND RACING DAYS. A greyhound racetrack association is entitled to 300 evening performances and 150 matinee performances in a calendar year. (V.A.C.S. Art. 179e, Sec. 10.01 (part).)

Sec. 2029.052. CHARITY DAYS. (a) The commission shall grant not less than five additional greyhound racing days during a greyhound race meeting to be conducted as charity days.

(b) The commission shall ensure that races conducted by a racetrack association on a charity day are comparable in all respects, including the generation of revenue, to races conducted by that racetrack association on any other greyhound racing day.

(c) The commission shall adopt rules relating to the conduct of charity days. (V.A.C.S. Art. 179e, Sec. 10.01 (part).)

Sec. 2029.053. SUBSTITUTE RACING DAYS OR ADDITIONAL RACES. If, for a reason beyond a greyhound racetrack association's control and not caused by the racetrack association's fault or neglect, it is impossible for the racetrack association to conduct a race on a day authorized by the commission, the commission in its discretion and at the request of the racetrack association, as a substitute for the race, may:

- (1) specify another day for the racetrack association to conduct racing; or
- (2) add additional races to already programmed events. (V.A.C.S. Art. 179e, Sec. 10.02.)

CHAPTER 2030. TEXAS-BRED HORSES AND GREYHOUNDS

SUBCHAPTER A. TEXAS-BRED HORSES; BREED REGISTRIES; RACING

Sec. 2030.001. QUALIFICATIONS OF ACCREDITED TEXAS-BRED HORSES

Sec. 2030.002. STATE HORSE BREED REGISTRIES

Sec. 2030.003. TEXAS-BRED RACES

Sec. 2030.004. PURSE SUPPLEMENTS FOR TEXAS-BRED RACES

Sec. 2030.005. EQUITABLE NUMBER OF RACES FOR EACH BREED

Sec. 2030.006. EQUITABLE STABLING

SUBCHAPTER B. TEXAS-BRED GREYHOUNDS

Sec. 2030.051. QUALIFICATIONS OF TEXAS-BRED GREYHOUNDS

Sec. 2030.052. STATE GREYHOUND BREED REGISTRY

Sec. 2030.053. BREAKAGE DISTRIBUTIONS DUE STATE GREYHOUND BREED REGISTRY

CHAPTER 2030. TEXAS-BRED HORSES AND GREYHOUNDS

SUBCHAPTER A. TEXAS-BRED HORSES; BREED REGISTRIES; RACING

Sec. 2030.001. QUALIFICATIONS OF ACCREDITED TEXAS-BRED HORSES.

(a) Subject to this subtitle or commission rule, a state horse breed registry shall adopt reasonable rules to establish the qualifications of accredited Texas-bred horses to promote, develop, and improve the breeding of horses in this state.

(b) Rules adopted under this section are subject to approval by the commission. (V.A.C.S. Art. 179e, Sec. 9.01.)

Sec. 2030.002. STATE HORSE BREED REGISTRIES. (a) The officially designated state horse breed registries for accredited Texas-bred horses are:

- (1) the Texas Thoroughbred Breeders Association for Thoroughbred horses;
- (2) the Texas Quarter Horse Association for quarter horses;
- (3) the Texas Appaloosa Horse Club for Appaloosa horses;
- (4) the Texas Arabian Breeders Association for Arabian horses; and
- (5) the Texas Paint Horse Breeders Association for paint horses.

(b) The appropriate state horse breed registry shall act in an advisory capacity to each racetrack association and to the commission for the purpose of administering Sections 2030.003 and 2030.004. (V.A.C.S. Art. 179e, Secs. 9.02, 9.03(b) (part).)

Sec. 2030.003. TEXAS-BRED RACES. (a) In this section, "Texas-bred race" means a race limited to accredited Texas-bred horses.

(b) A racetrack association shall provide for the running of Texas-bred races.

(c) Except as provided by Subsection (d), on each horse racing day, a racetrack association shall provide for the running of at least two Texas-bred races, including one race restricted to maidens.

(d) In accordance with commission rule, a racetrack association may defer the running of one or both of the races required by Subsection (c) for each horse racing day if the racetrack association provides that the total number of accredited Texas-bred races in a horse race meeting is equal to twice the total number of horse racing days in the horse race meeting. (V.A.C.S. Art. 179e, Sec. 9.03(a) (part).)

Sec. 2030.004. PURSE SUPPLEMENTS FOR TEXAS-BRED RACES. (a) In this section, "Texas-bred race" has the meaning assigned by Section 2030.003.

(b) To encourage horse breeding in this state, an accredited Texas-bred horse finishing first, second, or third in a race in this state, except a restricted stakes race, is entitled to receive a purse supplement.

(c) Funds for the purse supplements shall be derived from the breakage as provided by Subchapters C and E, Chapter 2028.

(d) An accredited Texas-bred Thoroughbred horse that finishes first, second, or third in a race other than a Texas-bred race is entitled to receive an owner's bonus award as a purse supplement. Twenty-five percent of the Texas-bred program funds received under Subchapters C and E, Chapter 2028, excluding expenses for administration of the Texas-bred program, shall be allocated to fund the bonus awards. (V.A.C.S. Art. 179e, Secs. 9.03(a) (part), (b) (part), (c) (part), 9.04.)

Sec. 2030.005. EQUITABLE NUMBER OF RACES FOR EACH BREED. (a) A racetrack association that conducts a horse race meeting for more than one breed of horse at one racetrack shall provide that the number of races run by each breed on each day is equitable as determined by the commission under Section 2029.003.

(b) The commission by rule or by order may allow an exception to Subsection (a) if an insufficient number of horses of a breed are available to provide sufficient competition. (V.A.C.S. Art. 179e, Sec. 9.05.)

Sec. 2030.006. EQUITABLE STABLING. A racetrack association that conducts a horse race meeting for more than one breed of horse at one racetrack shall provide on-track stalls on an equitable basis as determined by the commission under Section 2029.003. (V.A.C.S. Art. 179e, Sec. 9.06.)

SUBCHAPTER B. TEXAS-BRED GREYHOUNDS

Sec. 2030.051. QUALIFICATIONS OF TEXAS-BRED GREYHOUNDS. (a) Subject to this subtitle or commission rule, the state greyhound breed registry shall adopt reasonable rules to establish the qualifications of accredited Texas-bred greyhounds to promote, develop, and improve the breeding of greyhounds in this state.

(b) Rules adopted under this section are subject to approval by the commission. (V.A.C.S. Art. 179e, Sec. 10.04(a).)

Sec. 2030.052. STATE GREYHOUND BREED REGISTRY. The officially designated state greyhound breed registry for accredited Texas-bred greyhounds is the Texas

Greyhound Association. (V.A.C.S. Art. 179e, Sec. 10.05 (part).)

Sec. 2030.053. BREAKAGE DISTRIBUTIONS DUE STATE GREYHOUND BREED REGISTRY. (a) The state greyhound breed registry shall adopt rules to provide for the use of breakage received by the registry under Section 2028.154(a).

(b) A racetrack association shall pay the appropriate state greyhound breed registry at least every 30 days the breakage due to the breed registry. (V.A.C.S. Art. 179e, Sec. 10.05 (part).)

CHAPTER 2031. TEXAS DERBIES

Sec. 2031.001. ESTABLISHMENT OF TEXAS DERBIES

Sec. 2031.002. RACE CONDITIONS, ENTRANCE QUALIFICATIONS, AND PREFERENCE SYSTEM

Sec. 2031.003. PRERACE EXAMINATION

Sec. 2031.004. TEXAS DERBY ESCROW PURSE FUND

CHAPTER 2031. TEXAS DERBIES

Sec. 2031.001. ESTABLISHMENT OF TEXAS DERBIES. (a) The commission shall establish as Texas Derbies the following annual stakes races:

- (1) one race open to three-year-old Thoroughbreds;
- (2) one race open only to three-year-old Texas-bred Thoroughbreds;
- (3) one race open to three-year-old quarter horses; and
- (4) one race open only to three-year-old Texas-bred quarter horses.

(b) Each Texas Derby must be held annually on a date and at the class 1 racetrack determined by the commission. The commission shall determine the location of each Texas Derby in consultation with:

- (1) each class 1 racetrack;
- (2) the official state horse breed registries; and
- (3) the official horsemen's organization.

(c) The commission may sell the right to name a Texas Derby. The commission shall deposit the proceeds from the sale of the right to name a Texas Derby into the Texas Derby escrow purse fund established under Section 2031.004. (V.A.C.S. Art. 179e, Secs. 9A.001(a), (e), (f).)

Sec. 2031.002. RACE CONDITIONS, ENTRANCE QUALIFICATIONS, AND PREFERENCE SYSTEM. (a) For each Texas Derby, the race conditions, the entrance qualifications, and the preference system used to determine race finalists shall be developed by:

- (1) the racetrack that is awarded the derby, for a race described by Section 2031.001(a)(1) or (3); or
- (2) the respective official state horse breed registries and the official horsemen's organization, for a race described by Section 2031.001(a)(2) or (4).

(b) The race conditions, the entrance qualifications, and the preference system developed under Subsection (a) are subject to review and approval by the executive director. (V.A.C.S. Art. 179e, Secs. 9A.001(b), (c), (d).)

Sec. 2031.003. PRERACE EXAMINATION. (a) For each Texas Derby, the commission shall appoint a state veterinarian to conduct a prerace examination of each horse entered in the race to determine whether the horse:

- (1) is healthy; and
- (2) meets standards set by commission rule for racing.

(b) The examination may:

- (1) be conducted at any time before the race; and

(2) include any procedure that the state veterinarian considers necessary to make the determination required by Subsection (a). (V.A.C.S. Art. 179e, Sec. 9A.002.)

Sec. 2031.004. TEXAS DERBY ESCROW PURSE FUND. (a) The commission shall establish a Texas Derby escrow purse fund.

(b) Notwithstanding Section 2023.053 or 2024.055 or any other law, the commission by rule shall determine a portion of the fees, charges, and other revenue collected under this subtitle to be deposited to the credit of the Texas Derby escrow purse fund in the amount reasonably necessary to maintain competitive purses for each Texas Derby.

(c) The commission shall by rule establish a schedule of entrance fees for participants in each Texas Derby. A portion of each entrance fee, in the amount determined by the commission under Subsection (b), shall be deposited in the Texas Derby escrow purse fund.

(d) The commission by rule may assess under this subtitle additional charges and fees, including gate fees, to supplement the funds otherwise deposited in the Texas Derby escrow purse fund under this section.

(e) The commission may not:

(1) use funds from the accredited Texas-bred program under Subchapter A, Chapter 2030, or the escrowed purse account under Section 2028.204 to fund the Texas Derby escrow purse fund; or

(2) order a state horse breed registry to fund a purse for a Texas Derby, make contributions to the Texas Derby escrow purse fund, or pay the expenses of a Texas Derby race.

(f) State revenue may not be deposited to the credit of the Texas Derby escrow purse fund except as provided by this section. (V.A.C.S. Art. 179e, Sec. 9A.003.)

CHAPTER 2032. LIVESTOCK SHOWS, EXHIBITS, AND FAIRS

Sec. 2032.001. COUNTY LIVESTOCK SHOWS AND EXHIBITS; COUNTY RIGHTS

Sec. 2032.002. COUNTIES HOLDING CERTAIN RACETRACK LICENSES

Sec. 2032.003. PUBLIC FAIRS AND LIVESTOCK EXHIBITIONS

CHAPTER 2032. LIVESTOCK SHOWS, EXHIBITS, AND FAIRS

Sec. 2032.001. COUNTY LIVESTOCK SHOWS AND EXHIBITS; COUNTY RIGHTS.

(a) Subject to the licensing requirements and other provisions of this subtitle, a county may conduct an annual race meeting, not to exceed 16 racing days, in connection with a livestock show or exhibit held under Chapter 319, Local Government Code.

(b) An agent qualified to hold a license under this subtitle and selected by the commissioners court under Section 319.004, Local Government Code, may conduct the race meeting.

(c) This subtitle does not prohibit a county from exercising any right otherwise granted to any person by this subtitle. (V.A.C.S. Art. 179e, Sec. 12.01.)

Sec. 2032.002. COUNTIES HOLDING CERTAIN RACETRACK LICENSES. (a) A county that holds a class 4 racetrack license may conduct an annual race meeting not to exceed five racing days in connection with a livestock show or exhibit held under Chapter 319, Local Government Code. A racing day of the annual race meeting must be conducted on a day when general fair activities are conducted.

(b) A county that holds a class 4 racetrack license may contract with an agent to conduct any portion of a race meeting. The agent must hold a license issued under this subtitle that is appropriate for the service the agent provides. (V.A.C.S. Art. 179e, Sec. 12.03.)

Sec. 2032.003. PUBLIC FAIRS AND LIVESTOCK EXHIBITIONS. Subject to the licensing requirements and other provisions of this subtitle, a nonprofit corporation may conduct a race meeting, not to exceed 16 racing days, for the purpose of encouraging agriculture through the operation of public fairs and livestock exhibitions. (V.A.C.S. Art. 179e, Sec. 12.02.)

**CHAPTER 2033. CRIMINAL AND ADMINISTRATIVE PENALTIES;
DISCIPLINARY POWERS**

SUBCHAPTER A. CRIMINAL PENALTIES AND PROCEDURES

- Sec. 2033.001. GENERAL CRIMINAL PENALTY
- Sec. 2033.002. UNLAWFUL RACING
- Sec. 2033.003. PARI-MUTUEL WAGERING WITHOUT LICENSE
- Sec. 2033.004. RACING WITHOUT LICENSE
- Sec. 2033.005. IMPERSONATING LICENSE HOLDER
- Sec. 2033.006. UNLAWFUL POSSESSION OR USE OF CREDENTIAL
- Sec. 2033.007. FAILURE TO DISPLAY CREDENTIAL
- Sec. 2033.008. RACES CONDUCTED ON CERTAIN INDIAN LANDS
- Sec. 2033.009. ILLEGAL ACCESS TO ENCLOSURE
- Sec. 2033.010. HINDERING ENTRY OR SEARCH
- Sec. 2033.011. FORGING PARI-MUTUEL TICKET
- Sec. 2033.012. FALSE STATEMENTS
- Sec. 2033.013. TOUTING
- Sec. 2033.014. BRIBERY AND CORRUPT INFLUENCE
- Sec. 2033.015. POSSESSION OR USE OF PROHIBITED DEVICE OR SUBSTANCE
- Sec. 2033.016. CRIMINAL CONFLICT OF INTEREST
- Sec. 2033.017. OFFENSE INVOLVING MINOR
- Sec. 2033.018. SEARCH AND SEIZURE
- Sec. 2033.019. PROSECUTION
- Sec. 2033.020. VENUE FOR PROSECUTION
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SUBCHAPTER B. ADMINISTRATIVE PENALTY

- Sec. 2033.051. IMPOSITION OF PENALTY
- Sec. 2033.052. AMOUNT OF PENALTY
- Sec. 2033.053. PRELIMINARY REPORT AND NOTICE OF VIOLATION AND PEN-
ALTY
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SUBCHAPTER C. CEASE AND DESIST ORDERS

- Sec. 2033.101. CEASE AND DESIST ORDER
- Sec. 2033.102. HEARING CONCERNING PROPOSED CEASE AND DESIST ORDER;
FINAL ORDER
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- Sec. 2033.105. HEARING CONCERNING EMERGENCY CEASE AND DESIST OR-
DER; FINAL ORDER
- Sec. 2033.106. VIOLATION OF FINAL CEASE AND DESIST ORDER

SUBCHAPTER D. OTHER DISCIPLINARY POWERS

Sec. 2033.151. DISCIPLINARY ACTIONS

Sec. 2033.152. HEARING CONCERNING SUSPENSION, REVOCATION, OR REFUSAL TO RENEW LICENSE

Sec. 2033.153. INJUNCTION

Sec. 2033.154. ENFORCEMENT REGARDING HORSEMEN'S ACCOUNT

CHAPTER 2033. CRIMINAL AND ADMINISTRATIVE PENALTIES; DISCIPLINARY POWERS

SUBCHAPTER A. CRIMINAL PENALTIES AND PROCEDURES

Sec. 2033.001. GENERAL CRIMINAL PENALTY. If a provision of this subtitle creates an offense without providing a specific penalty, a person who violates that provision commits a state jail felony. (V.A.C.S. Art. 179e, Sec. 15.01.)

Sec. 2033.002. UNLAWFUL RACING. A person commits an offense if:

(1) the person participates in, permits, or conducts a horse or greyhound race at a racetrack;

(2) the person wagers on the partial or final outcome of the horse or greyhound race or knows or reasonably should know that another person is betting on the partial or final outcome of the race; and

(3) the race is not part of a performance or race meeting conducted under this subtitle or commission rule. (V.A.C.S. Art. 179e, Sec. 14.14.)

Sec. 2033.003. PARI-MUTUEL WAGERING WITHOUT LICENSE. (a) A person commits an offense if, without a license, the person in any capacity participates or is otherwise involved in horse racing or greyhound racing with pari-mutuel wagering.

(b) An offense under Subsection (a) is a Class A misdemeanor, unless the actor was required by this subtitle to obtain a racetrack license, in which event the offense is a state jail felony.

(c) It is an affirmative defense to prosecution under Subsection (a) that the actor was a spectator or a person placing a wager. (V.A.C.S. Art. 179e, Sec. 14.15.)

Sec. 2033.004. RACING WITHOUT LICENSE. (a) A person commits an offense if the person:

(1) conducts a horse or greyhound race without a racetrack license; and

(2) knows or reasonably should know that another person is betting on the final or partial outcome of the race.

(b) An offense under this section is a felony of the third degree. (V.A.C.S. Art. 179e, Sec. 14.16.)

Sec. 2033.005. IMPERSONATING LICENSE HOLDER. (a) A person commits an offense if the person impersonates a license holder with the intent to induce another person to submit to the actor's purported authority as a license holder or to rely on the actor's actions as an alleged license holder.

(b) An offense under this section is a Class A misdemeanor. (V.A.C.S. Art. 179e, Sec. 14.09.)

Sec. 2033.006. UNLAWFUL POSSESSION OR USE OF CREDENTIAL. (a) A person commits an offense if the person knowingly possesses or displays a credential or false credential that identifies the person as the holder of the credential and the person knows that:

(1) the credential is not issued to the person; or

(2) the person is not a license holder.

(b) An offense under this section is a Class C misdemeanor. (V.A.C.S. Art. 179e, Sec. 14.02.)

Sec. 2033.007. FAILURE TO DISPLAY CREDENTIAL. (a) For purposes of this section, a request is lawful if it is made:

(1) at any time by:

- (A) the commission;
- (B) an authorized commission agent;
- (C) the director or a commissioned officer of the Department of Public Safety;
- (D) a peace officer; or
- (E) a steward or judge; and

(2) at any restricted location that is at a racetrack and is not a public place.

(b) A person commits an offense if, after a lawful request, the person knowingly fails or refuses to:

- (1) display a credential to another person; or
- (2) give the person's name, residence address, or date of birth to another person.

(c) Except as provided by Subsection (d), an offense under this section is a Class B misdemeanor.

(d) At the punishment stage of a trial for an offense under Subsection (b)(1), the defendant may raise an issue as to whether the defendant was a license holder at the time of the offense. If the defendant proves the issue, the offense is a Class C misdemeanor. (V.A.C.S. Art. 179e, Sec. 14.17.)

Sec. 2033.008. RACES CONDUCTED ON CERTAIN INDIAN LANDS. (a) A person commits an offense if the person knowingly wagers on the result of a horse or greyhound race conducted in this state that:

(1) is held on an American Indian reservation or on American Indian trust land located in this state; and

(2) is not held under the supervision of the commission under rules adopted under this subtitle.

(b) An offense under this section is a felony of the third degree.

(c) It is an exception to the application of this section that the person is a member of a recognized Texas Indian tribe who lives on a reservation or on trust lands located in this state. (V.A.C.S. Art. 179e, Sec. 14.05.)

Sec. 2033.009. ILLEGAL ACCESS TO ENCLOSURE. (a) A person commits an offense if the person is a license holder and the person knowingly permits, facilitates, or allows access to an enclosure where races are conducted to another person who the person knows:

- (1) has engaged in bookmaking, touting, or illegal wagering;
- (2) derives income from illegal activities or enterprises;
- (3) has been convicted of a violation of this subtitle; or
- (4) is excluded by the commission from entering a racetrack.

(b) An offense under this section is a Class B misdemeanor. (V.A.C.S. Art. 179e, Sec. 14.04.)

Sec. 2033.010. HINDERING ENTRY OR SEARCH. (a) A person commits an offense if the person with criminal negligence refuses, denies, or hinders entry to another person who is exercising or attempting to exercise a power of entry under this subtitle or a commission rule.

(b) A person commits an offense if the person with criminal negligence refuses, denies, hinders, interrupts, disrupts, impedes, or otherwise interferes with a search by a person who is exercising or attempting to exercise a power to search under this subtitle or a commission rule.

(c) An offense under this section is a Class B misdemeanor. (V.A.C.S. Art. 179e, Sec.

14.07.)

Sec. 2033.011. FORGING PARI-MUTUEL TICKET. (a) In this section, “forge” has the meaning assigned by Section 32.21, Penal Code.

(b) A person commits an offense if the person knowingly forges a pari-mutuel ticket with the intent to defraud or harm another person.

(c) An offense under this section is a felony of the third degree. (V.A.C.S. Art. 179e, Sec. 14.08.)

Sec. 2033.012. FALSE STATEMENTS. (a) In this section, “statement” means a representation of fact, including:

- (1) a written or oral statement; or
- (2) a sworn or unsworn statement.

(b) A person commits an offense if the person knowingly makes a material and false, incorrect, or deceptive statement to another person who is conducting an investigation or exercising discretion under this subtitle or a rule adopted under this subtitle.

(c) An offense under this section is a state jail felony unless the statement was material in a commission action relating to a racetrack license, in which event the offense is a felony of the third degree. (V.A.C.S. Art. 179e, Sec. 14.06.)

Sec. 2033.013. TOUTING. (a) A person commits an offense if, with an intent to deceive and an intent to obtain a benefit, the person knowingly:

- (1) makes a false statement about a horse or greyhound race to another person; or
- (2) offers, agrees to convey, or conveys false information about a horse or greyhound race to another person.

(b) Except as provided by Subsection (c), an offense under this section is a Class A misdemeanor.

(c) An offense under this section is a state jail felony if:

(1) the actor:

(A) is a license holder under this subtitle or a commission member or employee; and

(B) knowingly represents that a commission member or employee or a person licensed by the commission is the source of the false information; or

(2) the false statement or information was contained in racing selection information provided to the public. (V.A.C.S. Art. 179e, Sec. 14.01.)

Sec. 2033.014. BRIBERY AND CORRUPT INFLUENCE. (a) A person commits an offense if, with the intent to influence or affect the outcome of a race in a manner contrary to this subtitle or a commission rule, the person offers, confers, or agrees to confer on another person, or solicits, accepts, or agrees to accept from another person, any benefit as consideration for the actions of a person who receives the benefit relating to the conduct, decision, opinion, recommendation, vote, or exercise of discretion as a license holder or other person associated with or interested in any stable, kennel, horse, greyhound, or horse or greyhound race.

(b) An offense under this section is a state jail felony unless the recipient of the benefit is a steward, judge, or other racetrack official exercising authority over a horse or greyhound race that the person providing or offering the benefit intended to influence, in which event the offense is a felony of the third degree. (V.A.C.S. Art. 179e, Sec. 14.11.)

Sec. 2033.015. POSSESSION OR USE OF PROHIBITED DEVICE OR SUBSTANCE. (a) A person commits an offense if the person possesses a prohibited device or prohibited substance at a racetrack, in an enclosure, or at a training facility.

(b) A person commits an offense if, with the intent to influence or affect a horse or greyhound race in a manner contrary to this subtitle or a commission rule, the person uses or offers to use:

- (1) a prohibited device; or

(2) a prohibited substance.

(c) An offense under Subsection (a) is a Class A misdemeanor unless the actor possessed the prohibited device or prohibited substance with the intent to influence or affect the outcome of a horse or greyhound race in a manner contrary to this subtitle or a commission rule, in which event the offense is a state jail felony.

(d) An offense under Subsection (b) is a felony of the third degree. (V.A.C.S. Art. 179e, Sec. 14.10.)

Sec. 2033.016. CRIMINAL CONFLICT OF INTEREST. A person who is a commission member commits an offense if the person:

(1) accepts, directly or indirectly, employment or remuneration from a racetrack, racetrack association, or other license holder, including a racetrack, racetrack association, or license holder located or residing in another state;

(2) wagers or causes a wager to be placed on the outcome of a horse or greyhound race conducted in this state; or

(3) accepts or is entitled to any part of a purse to be paid to an animal in a race conducted in this state. (V.A.C.S. Art. 179e, Sec. 14.12.)

Sec. 2033.017. OFFENSE INVOLVING MINOR. (a) A person commits an offense if the person with criminal negligence permits, facilitates, or allows:

(1) wagering by a minor at a racetrack; or

(2) entry by a child to the viewing section of a racetrack.

(b) A person commits an offense if the person is a minor and knowingly engages in wagering at a racetrack.

(c) An offense under Subsection (a) is a Class B misdemeanor.

(d) An offense under Subsection (b) is a Class C misdemeanor.

(e) It is an affirmative defense to prosecution of an offense under Subsection (a)(2) that a child was accompanied by and was in the physical presence of a parent, guardian, or spouse who was 21 years of age or older.

(f) It is an affirmative defense to prosecution of an offense under Subsection (a) that the minor falsely represented the minor's age by displaying to the person an apparently valid Texas driver's license or identification card issued by the Department of Public Safety that contains a physical description consistent with the minor's appearance. (V.A.C.S. Art. 179e, Sec. 14.13.)

Sec. 2033.018. SEARCH AND SEIZURE. (a) A person consents to a search for a prohibited device, prohibited substance, or other contraband at a time and location described by Subsection (b) if the person:

(1) accepts a license or other credential issued under this subtitle; or

(2) enters a racetrack under the authority of a license or other credential alleged to have been issued under this subtitle.

(b) A search may be conducted by a commissioned officer of the Department of Public Safety or a peace officer, including a peace officer employed by the commission, at any time and at any location at a racetrack, except a location:

(1) excluded by commission rule from searches under this section; or

(2) provided by a racetrack association under commission rule for private storage of personal items belonging to a license holder entering a racetrack.

(c) A person conducting a search under Subsection (b) may seize a prohibited device, prohibited substance, or other contraband discovered during the search. (V.A.C.S. Art. 179e, Sec. 14.18.)

Sec. 2033.019. PROSECUTION. A person subject to prosecution for an offense under this subtitle and another law may be prosecuted under either law. (V.A.C.S. Art. 179e, Sec. 14.19.)

Sec. 2033.020. **VENUE FOR PROSECUTION.** Venue for the prosecution of an offense under this subtitle is in Travis County or in a county in which an element of the offense occurred. (V.A.C.S. Art. 179e, Sec. 14.21.)

Sec. 2033.021. **COMMISSION AUTHORITY.** This subchapter does not restrict the commission's administrative authority to enforce this subtitle or commission rules to the fullest extent authorized by this subtitle. (V.A.C.S. Art. 179e, Sec. 14.20.)

SUBCHAPTER B. ADMINISTRATIVE PENALTY

Sec. 2033.051. **IMPOSITION OF PENALTY.** If the commission determines that a person regulated under this subtitle has violated this subtitle or a rule or order adopted under this subtitle in a manner that constitutes a ground for a disciplinary action under this subtitle, the commission may assess an administrative penalty against that person as provided by this subchapter. (V.A.C.S. Art. 179e, Sec. 15.03(a).)

Sec. 2033.052. **AMOUNT OF PENALTY.** (a) The commission may assess an administrative penalty under this subchapter in an amount not to exceed \$10,000 for each violation.

(b) In determining the amount of the penalty, the commission shall consider the seriousness of the violation. (V.A.C.S. Art. 179e, Sec. 15.03(b).)

Sec. 2033.053. **PRELIMINARY REPORT AND NOTICE OF VIOLATION AND PENALTY.** (a) If, after examination of a possible violation and the facts relating to that possible violation, the commission determines that a violation has occurred, the commission shall issue a preliminary report that states:

- (1) the facts on which the conclusion is based;
- (2) the fact that an administrative penalty is to be imposed; and
- (3) the amount of the penalty to be assessed.

(b) Not later than the 10th day after the date on which the commission issues the preliminary report, the commission shall send a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty. (V.A.C.S. Art. 179e, Sec. 15.03(c).)

Sec. 2033.054. **PENALTY TO BE PAID OR HEARING REQUESTED.** (a) Not later than the 20th day after the date on which the commission sends the preliminary report under Section 2033.053, the person charged may:

- (1) make a written request for a hearing; or
- (2) remit the amount of the administrative penalty to the commission.

(b) Failure to request a hearing or to remit the amount of the administrative penalty in the period provided under this section results in a waiver of a right to a hearing under this subtitle. (V.A.C.S. Art. 179e, Sec. 15.03(d) (part).)

Sec. 2033.055. **HEARING.** (a) If the person charged requests a hearing, the hearing shall be conducted in the manner provided for a contested case hearing under Chapter 2001, Government Code.

(b) If it is determined after the hearing that the person has committed the alleged violation, the commission shall:

- (1) provide written notice to the person of the findings established by the hearing and the amount of the penalty; and
- (2) enter an order requiring the person to pay the penalty. (V.A.C.S. Art. 179e, Sec. 15.03(d) (part).)

Sec. 2033.056. **OPTIONS FOLLOWING DECISION: PAY OR APPEAL.** (a) Not later than the 30th day after the date on which the notice required under Section 2033.055 is received, the person charged shall pay the administrative penalty in full or exercise the right to appeal either the amount of the penalty or the fact of the violation.

(b) If a person exercises a right of appeal either as to the amount of the penalty or the

fact of the violation, the amount of the penalty is not required to be paid until the 30th day after the date on which all appeals have been exhausted and the commission's decision has been upheld.

(c) Except as otherwise provided by Section 2024.053(c), all administrative appeals are to the commission and then to the courts. (V.A.C.S. Art. 179e, Secs. 4.05(b) (part), 15.03(e).)

Sec. 2033.057. COMPLAINTS. (a) A complaint alleging a violation of this subtitle may be instituted by the Department of Public Safety, the commission, or the attorney general.

(b) The complaint must be decided by the commission under the contested case provisions of Chapter 2001, Government Code. (V.A.C.S. Art. 179e, Sec. 15.04.)

SUBCHAPTER C. CEASE AND DESIST ORDERS

Sec. 2033.101. CEASE AND DESIST ORDER. (a) The executive director may issue a cease and desist order if the executive director reasonably believes a racetrack association or other license holder is engaging or is likely to engage in conduct that violates this subtitle or a commission rule.

(b) On issuance of a cease and desist order, the executive director shall serve a proposed cease and desist order on the racetrack association or other license holder by personal delivery or registered or certified mail, return receipt requested, to the person's last known address.

(c) The proposed order must state the specific acts or practices alleged to violate this subtitle or a commission rule. The proposed order must state the effective date, which may not be earlier than the 21st day after the date the proposed order is mailed or delivered. (V.A.C.S. Art. 179e, Secs. 3.18(a), (b) (part).)

Sec. 2033.102. HEARING CONCERNING PROPOSED CEASE AND DESIST ORDER; FINAL ORDER. (a) If the person against whom a proposed cease and desist order is directed requests, in writing, a hearing before the effective date of the proposed order, the order is automatically stayed pending final adjudication of the order. Unless the person against whom the proposed order is directed requests, in writing, a hearing before the effective date of the proposed order, the order takes effect and is final and nonappealable as to that person.

(b) On receiving a request for a hearing, the executive director shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested.

(c) At a hearing, the commission has the burden of proof and must present evidence in support of the order. Each person against whom the order is directed may cross-examine and show cause why the order should not be issued.

(d) After the hearing, the commission shall issue or decline to issue a cease and desist order. The proposed order may be modified as necessary to conform to the findings at the hearing. An order issued under this section is final for purposes of enforcement and appeal and must require the person to immediately cease and desist from the conduct that violates this subtitle or a commission rule. (V.A.C.S. Art. 179e, Secs. 3.18(b) (part), (c), (d).)

Sec. 2033.103. PETITION FOR JUDICIAL REVIEW OF CEASE AND DESIST ORDER. (a) A person affected by a cease and desist order issued, affirmed, or modified after a hearing under Section 2033.102 may file a petition for judicial review in a district court of Travis County under Chapter 2001, Government Code.

(b) A petition for judicial review does not stay or vacate the cease and desist order unless the court, after hearing, specifically stays or vacates the order. (V.A.C.S. Art. 179e, Sec. 3.18(e).)

Sec. 2033.104. EMERGENCY CEASE AND DESIST ORDER. (a) The executive director may issue an emergency cease and desist order if the executive director reasonably believes a racetrack association or other license holder is engaged in a continuing

activity that violates this subtitle or a commission rule in a manner that threatens immediate and irreparable public harm.

(b) After issuing an emergency cease and desist order, the executive director shall serve on the racetrack association or other license holder by personal delivery or registered or certified mail, return receipt requested, to the person's last known address, an order stating the specific charges and requiring the person immediately to cease and desist from the conduct that violates this subtitle or a commission rule. The order must contain a notice that a request for hearing may be filed under this section. (V.A.C.S. Art. 179e, Secs. 3.19(a), (b).)

Sec. 2033.105. HEARING CONCERNING EMERGENCY CEASE AND DESIST ORDER; FINAL ORDER. (a) A racetrack association or other license holder that is the subject of an emergency cease and desist order may request a hearing. The request must:

- (1) be filed with the executive director not later than the 10th day after the date the order was received or delivered;
- (2) be in writing and directed to the executive director; and
- (3) state the grounds for the request to set aside or modify the order.

(b) Unless a person who is the subject of the emergency order requests a hearing in writing before the 11th day after the date the order is received or delivered, the emergency order is final and nonappealable as to that person.

(c) On receiving a request for a hearing, the executive director shall serve notice of the time and place of the hearing by personal delivery or registered or certified mail, return receipt requested. The hearing must be held not later than the 10th day after the date the executive director receives the request for a hearing unless the parties agree to a later hearing date.

(d) At the hearing, the commission has the burden of proof and must present evidence in support of the order. The person requesting the hearing may cross-examine witnesses and show cause why the order should not be affirmed. Section 2003.021(b), Government Code, does not apply to hearings conducted under this section.

(e) An emergency cease and desist order continues in effect unless the order is stayed by the executive director. The executive director may impose any condition before granting a stay of the order.

(f) After the hearing, the executive director shall affirm, modify, or set aside, wholly or partly, the emergency cease and desist order. An order affirming or modifying the emergency cease and desist order is final for purposes of enforcement and appeal. (V.A.C.S. Art. 179e, Secs. 3.19(c), (d), (e), (f).)

Sec. 2033.106. VIOLATION OF FINAL CEASE AND DESIST ORDER. (a) If the executive director reasonably believes that a person has violated a final and enforceable cease and desist order, the executive director may:

- (1) initiate administrative penalty proceedings under Subchapter B;
- (2) refer the matter to the attorney general for enforcement by injunction and any other available remedy; or
- (3) pursue any other action that the executive director considers appropriate, including suspension of the person's license.

(b) If the attorney general prevails in an action brought under Subsection (a)(2), the attorney general is entitled to recover reasonable attorney's fees. (V.A.C.S. Art. 179e, Sec. 3.20.)

SUBCHAPTER D. OTHER DISCIPLINARY POWERS

Sec. 2033.151. DISCIPLINARY ACTIONS. (a) The commission shall revoke, suspend, or refuse to renew a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of this subtitle or a commission rule.

(b) If a license suspension is probated, the commission may require the license holder to report regularly to the commission on matters that are the basis of the probation. (V.A.C.S. Art. 179e, Sec. 3.14.)

Sec. 2033.152. HEARING CONCERNING SUSPENSION, REVOCATION, OR REFUSAL TO RENEW LICENSE. (a) If the commission proposes to suspend, revoke, or refuse to renew a person's license, the person is entitled to a hearing conducted by the State Office of Administrative Hearings.

(b) Proceedings for a disciplinary action, other than those conducted by a steward or judge, are governed by Chapter 2001, Government Code.

(c) Rules of practice adopted by the commission under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action, other than those conducted by a steward or judge, may not conflict with rules adopted by the State Office of Administrative Hearings. (V.A.C.S. Art. 179e, Sec. 3.15.)

Sec. 2033.153. INJUNCTION. The commission may institute an action in its own name to enjoin the violation of this subtitle. An action for an injunction is in addition to any other action, proceeding, or remedy authorized by law. (V.A.C.S. Art. 179e, Sec. 3.21.)

Sec. 2033.154. ENFORCEMENT REGARDING HORSEMEN'S ACCOUNT. (a) The commission by rule shall develop a system for monitoring the activities of managers and employees of a racetrack association relating to the horsemen's account. The monitoring system may include review of the financial operations of the racetrack association, including inspections of records at the racetrack association's offices, at any racetrack, or at any other place the racetrack association transacts business.

(b) The executive director may issue an order prohibiting the racetrack association from making any transfer from a bank account held by the racetrack association for the conduct of business under this subtitle, pending commission review of the records of the account, if the executive director reasonably believes that the racetrack association has failed to maintain the proper amount of money in the horsemen's account. The executive director shall provide in the order a procedure for the racetrack association to pay certain expenses necessary for the operation of the racetrack, subject to the executive director's approval.

(c) An order issued under this section may be made valid for a period not to exceed 14 days.

(d) The executive director may issue an order requiring the appropriate transfers to or from the horsemen's account if, after reviewing the racetrack association's records of its bank accounts, the executive director determines there is an improper amount of money in the horsemen's account. (V.A.C.S. Art. 179e, Sec. 3.22.)

CHAPTER 2034. UNLAWFUL INFLUENCE ON RACING

Sec. 2034.001. RULES RELATING TO UNLAWFUL INFLUENCES ON RACING AND REQUIRED TESTING

Sec. 2034.002. MEDICATION AND DRUG TESTING PROCEDURES

Sec. 2034.003. CHARGES FOR MEDICATION OR DRUG TESTING

Sec. 2034.004. RESPONSIBILITY OF LICENSED TRAINER CONCERNING PROHIBITED SUBSTANCE

Sec. 2034.005. PROHIBITED SUBSTANCE IN TEST SAMPLE OR SPECIMEN

Sec. 2034.006. DISCIPLINARY ACTION FOR PROHIBITED DEVICE OR SUBSTANCE

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CHAPTER 2034. UNLAWFUL INFLUENCE ON RACING

Sec. 2034.001. RULES RELATING TO UNLAWFUL INFLUENCES ON RACING

AND REQUIRED TESTING. (a) The commission shall adopt rules prohibiting a person from unlawfully influencing or affecting the outcome of a race, including rules relating to the use of a prohibited device or prohibited substance at a racetrack or at a training facility.

(b) The commission shall require testing to determine whether a prohibited substance has been used.

(c) The commission's rules must require state-of-the-art testing methods. The testing may:

- (1) be prerace or postrace as determined by the commission; and
- (2) be by an invasive or noninvasive method.

(d) The commission shall adopt rules relating to the drug testing of license holders. (V.A.C.S. Art. 179e, Secs. 3.16(a), (b), (i).)

Sec. 2034.002. MEDICATION AND DRUG TESTING PROCEDURES. (a) Medication or drug testing performed on a race animal under this subtitle must be conducted by:

- (1) the Texas A&M Veterinary Medical Diagnostic Laboratory; or
- (2) a laboratory operated by or in conjunction with or by a private or public agency selected by the commission after consultation with the Texas A&M Veterinary Medical Diagnostic Laboratory.

(b) Medication or drug testing performed on a human under this subtitle must be conducted by a laboratory approved by the commission. (V.A.C.S. Art. 179e, Sec. 3.07(d) (part).)

Sec. 2034.003. CHARGES FOR MEDICATION OR DRUG TESTING. (a) The commission by rule shall:

- (1) prescribe procedures for approving and paying medical and drug testing laboratory charges under this section; and
- (2) allocate responsibility for the costs of human drug testing of a license holder.

(b) The racetrack association that receives medication or drug testing services conducted under this subtitle shall pay the reasonable charges associated with those services.

(c) Charges for services performed under this section must be forwarded to the commission for approval of the reasonableness of the charges. Charges may include expenses incurred for travel, lodging, testing, and processing of test results.

(d) The commission shall determine whether the laboratory charges are reasonable in relation to industry standards by periodically surveying the drug testing charges of comparable laboratories in the United States.

(e) The racetrack association that receives the services is responsible for the cost of approved charges for animal drug testing services under this section. The commission shall forward a copy of the charges to the racetrack association for immediate payment.

(f) To pay the charges associated with the medication or drug testing, a racetrack association may use the money held by the racetrack association to pay outstanding tickets and pari-mutuel vouchers. The racetrack association shall pay any additional amount needed for the charges. (V.A.C.S. Art. 179e, Secs. 3.07(d) (part), (e), (f).)

Sec. 2034.004. RESPONSIBILITY OF LICENSED TRAINER CONCERNING PROHIBITED SUBSTANCE. The licensed trainer of an animal is:

- (1) considered by law to be the absolute ensurer that no prohibited substance has been administered to the animal; and
- (2) responsible for ensuring that no prohibited substance is administered to the animal. (V.A.C.S. Art. 179e, Sec. 3.16(h).)

Sec. 2034.005. PROHIBITED SUBSTANCE IN TEST SAMPLE OR SPECIMEN. (a) The commission may require urine samples to be frozen for a period necessary to al-

low any follow-up testing to detect and identify a prohibited substance. Any other specimen shall be maintained for testing purposes in a manner required by commission rule.

(b) If a test sample or specimen shows the presence of a prohibited substance, the entire sample, including any split portion remaining in the custody of the commission, shall be maintained until final disposition of the matter.

(c) A license holder whose animal test shows the presence of a prohibited substance is entitled to have a split portion of the test sample or specimen tested at a testing facility authorized to perform drug testing under this subtitle and selected by the license holder. The commission shall adopt rules relating to split testing procedures. (V.A.C.S. Art. 179e, Secs. 3.16(e), (f), (g).)

Sec. 2034.006. DISCIPLINARY ACTION FOR PROHIBITED DEVICE OR SUBSTANCE. (a) Following the discovery of a prohibited device or a return of a test showing the presence of a prohibited substance, a steward or judge may summarily suspend a person who has used or administered the prohibited device or prohibited substance until a hearing before the stewards or judges. The steward or judge may also disqualify an animal as provided by a commission rule adopted under this chapter.

(b) Except as otherwise provided, a person may appeal a ruling of the stewards or judges to the commission. The commission may stay a suspension during the period the matter is before the commission. (V.A.C.S. Art. 179e, Secs. 3.16(c), (d).)

Sec. 2034.007. DISCIPLINARY ACTION FOR RULE VIOLATION OF PROHIBITED DEVICE OR SUBSTANCE. A person who violates a rule adopted under this chapter may:

(1) have any license issued to the person by the commission revoked or suspended; or

(2) be barred for life or any other period from applying for or receiving a license issued by the commission or entering any portion of a racetrack. (V.A.C.S. Art. 179e, Sec. 3.16(j).)

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**CHAPTER 2035. LOCAL OPTION ELECTION TO LEGALIZE PARI-MUTUEL
WAGERING**

SUBCHAPTER A. LEGALIZATION ELECTION

Sec. 2035.001. VOTER APPROVAL OF RACETRACK REQUIRED. (a) The commission may not issue a racetrack license or accept a license application for a racetrack to be located in a county until the commissioners court has certified to the secretary of state that the qualified voters of the county have approved the legalization of pari-mutuel wagering on horse races or greyhound races in the county at an election held under this chapter.

(b) A racetrack may not be located within a home-rule municipality unless a majority of the votes cast in the municipality in the election held under this chapter that legalized pari-mutuel wagering on horse races in the county favored legalization.

(c) Subsection (b) does not apply to a racetrack that:

(1) was located outside the boundaries of the municipality when the racetrack was first licensed; and

(2) has continuously held a license since the issuance of the original license. (V.A.C.S. Art. 179e, Secs. 16.01(a) (part), (b).)

Sec. 2035.002. INITIATION OF LEGALIZATION ELECTION. The commissioners court:

(1) may, on its own motion by a majority vote of its members, order an election to approve the legalization of pari-mutuel wagering on horse races or greyhound races; and

(2) shall order an election on presentation of a petition meeting the requirements of this chapter. (V.A.C.S. Art. 179e, Sec. 16.02.)

Sec. 2035.003. ELECTION TO APPROVE WAGERING ON SIMULCAST RACES. The commissioners court of a county in which a racetrack is conducting live racing may, on its own motion by a majority vote of its members, order an election to approve pari-mutuel wagering on simulcast horse races or greyhound races. (V.A.C.S. Art. 179e, Sec. 16.021.)

Sec. 2035.004. APPLICATION FOR PETITION; ISSUANCE. If 10 or more registered voters of the county file a written application, the county clerk shall issue to the applicants a petition to be circulated among registered voters for their signatures. (V.A.C.S. Art. 179e, Sec. 16.03.)

Sec. 2035.005. CONTENTS OF PETITION APPLICATION. To be valid, the petition application must contain:

(1) a heading, as follows: "Application for a Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Horse Races" or "Application for a Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Greyhound Races," as appropriate;

(2) a statement of the issue to be voted on, as follows: "Legalizing pari-mutuel wagering on horse races in _____ County" or "Legalizing pari-mutuel wagering on greyhound races in _____ County," as appropriate;

(3) a statement immediately above the signatures of the applicants, as follows: "It is the hope, purpose, and intent of the applicants whose signatures appear below that pari-mutuel wagering on horse races be legalized in _____ County" or "It is the hope, purpose, and intent of the applicants whose signatures appear below that pari-mutuel wagering on greyhound races be legalized in _____ County," as appropriate; and

(4) the printed name, signature, residence address, and voter registration certificate number of each applicant. (V.A.C.S. Art. 179e, Sec. 16.04.)

Sec. 2035.006. CONTENTS OF PETITION. To be valid, the petition must contain:

(1) a heading, as follows: "Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Horse Races" or "Petition for a Local Option Election to Approve the Legalization of Pari-mutuel Wagering on Greyhound Races," as appropriate;

(2) a statement of the issue to be voted on, in the same words used in the application;

(3) a statement immediately above the signatures of the petitioners, as follows: "It is the hope, purpose, and intent of the petitioners whose signatures appear below that pari-mutuel wagering on horse races be legalized in _____ County" or "It is the hope, purpose, and intent of the petitioners whose signatures appear below that pari-mutuel wagering on greyhound races be legalized in _____ County," as appropriate;

(4) lines and spaces for the names, signatures, addresses, and voter registration certificate numbers of the petitioners; and

(5) the date of issuance, the serial number, and the seal of the county clerk on each page. (V.A.C.S. Art. 179e, Sec. 16.05.)

Sec. 2035.007. COPIES. The county clerk shall keep the application and a copy of the petition in the clerk's office files. The clerk shall issue to the applicants the number of copies requested by the applicants. (V.A.C.S. Art. 179e, Sec. 16.06.)

Sec. 2035.008. REQUIREMENTS TO ORDER ELECTION. The commissioners court shall order an election if the petition:

(1) is filed with the county clerk not later than the 30th day after the date of the petition's issuance; and

(2) contains a number of signatures of registered county voters equal to at least five percent of the number of votes cast in the county for all candidates for governor in the most recent gubernatorial general election. (V.A.C.S. Art. 179e, Sec. 16.07.)

Sec. 2035.009. VERIFICATION OF PETITION. (a) Except as otherwise provided by Section 277.003, Election Code, the county clerk shall, on request of any person, check each name on the petition to determine whether the signer is a registered county voter.

(b) The person requesting this verification by the county clerk shall pay the county clerk a sum equal to 20 cents per name before commencement of the verification.

(c) The county clerk may not count a signature if there is reason to believe that:

(1) the signature is not the actual signature of the purported signer;

(2) the voter registration certificate number is incorrect;

(3) the signature duplicates a name or handwriting used in any other signature on the petition;

(4) the residence address of the signer is incorrect; or

(5) the name of the voter is not signed exactly as the name appears on the official copy of the current list of registered voters for the voting year in which the petition is issued. (V.A.C.S. Art. 179e, Sec. 16.08.)

Sec. 2035.010. CERTIFICATION OF PETITION SIGNATURES. Not later than the 40th day after the date the petition is filed, excluding Saturdays, Sundays, and legal holidays, the county clerk shall certify to the commissioners court the number of registered voters signing the petition. (V.A.C.S. Art. 179e, Sec. 16.09.)

Sec. 2035.011. RECORD IN MINUTES. The commissioners court shall record in the court's minutes:

(1) the date the petition is filed; and

(2) the date the petition is certified by the county clerk. (V.A.C.S. Art. 179e, Sec. 16.10(a).)

Sec. 2035.012. ORDER FOR ELECTION; ELECTION DATE. (a) If the petition contains the required number of signatures and is in proper order, the commissioners court shall, at the court's next regular session after the certification by the county clerk, order an election to be held at the regular polling place in each county election precinct in the county on the next uniform election date authorized by Section 41.001, Election Code, that occurs at least 20 days after the date of the order.

(b) The commissioners court shall state in the order the issue to be voted on in the election. (V.A.C.S. Art. 179e, Sec. 16.10(b) (part).)

Sec. 2035.013. EVIDENCE OF VALIDITY. An order under Section 2035.012 is prima facie evidence of compliance with all provisions necessary to give the order validity. (V.A.C.S. Art. 179e, Sec. 16.10(b) (part).)

Sec. 2035.014. ELECTION PROCEDURES GOVERNED BY ELECTION CODE. An election under this chapter shall be held and the returns shall be prepared and canvassed in conformity with the Election Code. (V.A.C.S. Art. 179e, Sec. 16.11(a).)

Sec. 2035.015. BALLOT PROPOSITION. The ballots for an election under this subchapter shall be printed to permit voting for or against the proposition: "Legalizing pari-mutuel wagering on horse races in _____ County," "Legalizing pari-mutuel wagering on greyhound races in _____ County," or "Authorizing pari-mutuel wagering on simulcast races in _____ County," as appropriate. (V.A.C.S. Art. 179e, Sec. 16.11(b).)

Sec. 2035.016. CERTIFICATION OF ELECTION RESULTS. If a majority of the votes cast in the election favor the legalization of pari-mutuel wagering on horse races or greyhound races in the county, or the authorization of pari-mutuel wagering on simulcast races in the county, as appropriate, the commissioners court shall certify that fact to the secretary of state not later than the 10th day after the date of the canvass of the returns. (V.A.C.S. Art. 179e, Sec. 16.12(a).)

Sec. 2035.017. FREQUENCY OF ELECTIONS. Another election may not be held in the county under this chapter before the fifth anniversary of the preceding election date. (V.A.C.S. Art. 179e, Sec. 16.12(b).)

SUBCHAPTER B. ELECTION CONTEST

Sec. 2035.051. INITIATION OF ELECTION CONTEST. Not later than the 30th day after the date the result of the election is declared, any qualified voter of the county may contest the election by filing a petition in the district court of the county. (V.A.C.S. Art. 179e, Sec. 16.13(a) (part).)

Sec. 2035.052. PARTIES. Any person who is licensed or who has submitted to the commission an application to be licensed in any capacity under this subtitle may become a named party to the contest proceedings by pleading to the petition on or before the time set for hearing and trial as provided by Section 2035.053(b) or after that time by intervention on leave of court. (V.A.C.S. Art. 179e, Sec. 16.13(a) (part).)

Sec. 2035.053. CONDUCT OF CONTEST SUIT. (a) The proceedings in the contest

suit shall be conducted in the manner prescribed by Title 14, Election Code, for contesting an election held for a purpose other than the election of an officer.

(b) At or after the time for hearing and trial, the judge shall hear and determine all questions of law and fact in the proceedings and may enter orders for the proceedings that will enable the judge to:

(1) try and determine the questions; and

(2) render a final judgment with the least possible delay. (V.A.C.S. Art. 179e, Secs. 16.13(b) (part), (c).)

Sec. 2035.054. BOND. (a) Before entry of a final judgment in the contest proceedings, any party may move that the court dismiss the contestant's action unless the contestant posts a bond with sufficient surety, approved by the court, payable to the movant for the payment of all damages and costs that may accrue as a result of the delay caused by the contestant's continued participation in the proceedings if the contestant fails to finally prevail and obtain substantially the judgment prayed for in the petition.

(b) If a motion is made under this section, the court shall issue an order directed to the contestant that:

(1) is served personally or by registered mail on all parties, or on their attorneys of record, together with a copy of the motion; and

(2) requires the contestant to:

(A) appear at the time and place, not sooner than five days and not later than 10 days after the receipt of the order and motion, as the court may direct; and

(B) show cause why the motion should not be granted.

(c) Motions involving more than one contestant may be heard together at the court's direction.

(d) Unless at the hearing on the motion the contestant establishes facts that in the court's judgment would entitle the contestant to a temporary injunction against issuance of the license based on the election in question, the court shall:

(1) grant the movant's motion; and

(2) in the court's order, subject to Subsection (e), set the bond to be posted by the contestant in an amount the court finds to be sufficient to cover all damages and costs that may accrue as described by Subsection (a).

(e) The maximum bond that the court may set is:

(1) \$100,000 for an election contest for a racetrack to be located in a county that has a population of 1.3 million or more and in which a municipality with a population of more than one million is primarily located; or

(2) \$10,000 for an election contest for a racetrack to be located in any other county. (V.A.C.S. Art. 179e, Sec. 16.14.)

Sec. 2035.055. APPEAL. (a) A party to the contest suit may appeal to the appropriate court of appeals an order or judgment entered by the trial court under Section 2035.053.

(b) An order or judgment from which an appeal is not taken is final. If a party does not file an appeal before the 31st day after the date the result of the election is declared, the election is presumed valid.

(c) An order or judgment of a court of appeals may be appealed to the supreme court.

(d) An appeal under this section has priority over any other matter, except habeas corpus. The appellate court shall render its final order or judgment with the least possible delay.

(e) The contestee or the county may not be required to give bond on appeal. (V.A.C.S. Art. 179e, Secs. 16.15 (part), 16.17(b) (part).)

Sec. 2035.056. CONTESTEE. The county attorney is the contestee of a suit brought under Section 2035.051. If there is not a county attorney of the county, the criminal

district attorney or district attorney is the contestee. (V.A.C.S. Art. 179e, Sec. 16.17(a).)

Sec. 2035.057. COSTS OF CONTEST. Costs of the election contest may not be adjudged against the contestee or county. (V.A.C.S. Art. 179e, Sec. 16.17(b) (part).)

SUBCHAPTER C. RESCISSION ELECTION

Sec. 2035.101. INITIATION OF RESCISSION ELECTION. (a) The commissioners court of a county that has approved the legalization of racing with pari-mutuel wagering in that county may hold an election on the question of rescinding that approval.

(b) The commissioners court shall order the rescission election on the presentation of a petition requesting the election. (V.A.C.S. Art. 179e, Sec. 16.18(a) (part).)

Sec. 2035.102. EARLIEST DATE FOR HOLDING ELECTION. A rescission election may not be held before the second anniversary of the date of the election conducted under Section 2035.012 at which the legalization of pari-mutuel wagering was approved. (V.A.C.S. Art. 179e, Sec. 16.18(a) (part).)

Sec. 2035.103. PETITION REQUIREMENTS. A rescission election petition must meet the requirements imposed by this chapter for a petition to request a local option election on the question of the legalization of racing with pari-mutuel wagering. (V.A.C.S. Art. 179e, Sec. 16.18(a) (part).)

Sec. 2035.104. MANNER OF CONDUCTING ELECTION. An election under this subchapter to rescind legalization of racing shall be conducted in the manner provided for the original local option election under this chapter. (V.A.C.S. Art. 179e, Sec. 16.18(a) (part).)

Sec. 2035.105. BALLOT PROPOSITION. The ballots for an election under this subchapter shall be printed to permit voting for or against the proposition: "Rescinding the legalization of pari-mutuel wagering on horse races in _____ County" or "Rescinding the legalization of pari-mutuel wagering on greyhound races in _____ County," as appropriate. (V.A.C.S. Art. 179e, Sec. 16.18(a) (part).)

Sec. 2035.106. EFFECT OF RESCISSION. (a) If the majority of the votes cast in an election under this subchapter favor the rescission, racing with pari-mutuel wagering may not be conducted in that county except as provided by Subsection (b).

(b) A racetrack association located in a county that elects to rescind the legalization of racing and that has outstanding long-term liabilities may continue to operate on a temporary basis as provided by Section 2021.008. (V.A.C.S. Art. 179e, Secs. 16.18(b), (c).)

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Section 102.07(f), Alcoholic Beverage Code, is amended to read as follows:

(f) Notwithstanding Subsection (a) of this section, Section 108.05 ~~[of this code]~~, or any other provision of this code, a holder of a brewer's permit, nonresident brewer's permit, distiller's and rectifier's permit, winery permit, nonresident seller's permit, manufacturer's license, or nonresident manufacturer's license may, in order to promote the brand name of the permittee's or licensee's products, contract with a person licensed under *Subtitle A-1, Title 13, Occupations Code* (~~the~~ Texas Racing Act ~~[Article 179e, Vernon's Texas Civil Statutes]~~), for on-site advertising signs, for advertising in programs, and to supplement purses for races even though the licensees under that *subtitle* ~~[Act]~~ or the owners or operators of the racing facilities also hold a mixed beverage permit or other permit or license under this code. In addition, a permittee or licensee described by this subsection may contract for off-site advertising promoting specific races. A part of the cost of an advertisement or promotion authorized by this section may not be charged to or paid, directly or indirectly, by the holder of a wholesale permit, general class B wholesaler's permit, local class B wholesaler's permit, local distributor's permit, general distributor's license, or local distributor's license, except through the price paid by that holder for products purchased from the holder's supplier.

SECTION 2.02. Section 153.555, Business Organizations Code, is amended to read as follows:

Sec. 153.555. PERMITTED TRANSFER IN CONNECTION WITH RACETRACK LICENSE. The following transfer relating to a limited partnership is not a prohibited transfer that violates Section 2025.107(a), *Occupations Code* [6.12(a), *Texas Racing Act* (Article 179e, *Vernon's Texas Civil Statutes*)]:

(1) a transfer by a general partnership of its assets to a limited partnership, the corporate general partner of which is controlled by the partners of the general partnership; or

(2) a transfer by a limited partnership of the beneficial use of or interest in any of its rights, privileges, or assets to a local development corporation incorporated before January 31, 1993, under Subchapter D, Chapter 431, *Transportation Code*.

SECTION 2.03. Section 88.522(c), *Education Code*, is amended to read as follows:

(c) The comptroller shall periodically transfer the amounts specified by Sections 2028.103(a) [6.08(d)] and 2028.105(a) [(h)], *Occupations Code* [*Texas Racing Act* (Article 179e, *Vernon's Texas Civil Statutes*)], to the account.

SECTION 2.04. Section 411.096(a), *Government Code*, is amended to read as follows:

(a) The Texas Racing Commission is entitled to obtain from the department criminal history record information maintained by the department that pertains to a person who is:

(1) appointed to the commission;

(2) an applicant for employment by the commission; or

(3) an applicant for a license under *Subtitle A-1, Title 13, Occupations Code* [(the) *Texas Racing Act* (Article 179e, *Vernon's Texas Civil Statutes*)].

SECTION 2.05. Section 751.0021(a), *Health and Safety Code*, is amended to read as follows:

(a) This chapter applies to a horse or greyhound race that attracts or is expected to attract at least 100 persons, except that this chapter does not apply if the race is held at a location at which pari-mutuel wagering is authorized under *Subtitle A-1, Title 13, Occupations Code* [(the) *Texas Racing Act* (Article 179e, *Vernon's Texas Civil Statutes*)].

SECTION 2.06. Section 802.003(c), *Occupations Code*, is amended to read as follows:

(c) This chapter does not apply to an animal regulated under *Subtitle A-1, Title 13* [(the) *Texas Racing Act* (Article 179e, *Vernon's Texas Civil Statutes*)].

SECTION 2.07. Section 46.01(15), *Penal Code*, is amended to read as follows:

(15) "Racetrack" has the meaning assigned that term by *Section 2021.003(41), Occupations Code* [(the) *Texas Racing Act* (Article 179e, *Vernon's Texas Civil Statutes*)].

SECTION 2.08. Section 47.02(c), *Penal Code*, is amended to read as follows:

(c) It is a defense to prosecution under this section that the actor reasonably believed that the conduct:

(1) was permitted under Chapter 2001, *Occupations Code*;

(2) was permitted under Chapter 2002, *Occupations Code*;

(3) was permitted under Chapter 2004, *Occupations Code*;

(4) consisted entirely of participation in the state lottery authorized by the State Lottery Act (Chapter 466, *Government Code*);

(5) was permitted under *Subtitle A-1, Title 13, Occupations Code* [(the) *Texas Racing Act* (Article 179e, *Vernon's Texas Civil Statutes*)]; or

(6) consisted entirely of participation in a drawing for the opportunity to participate in a hunting, fishing, or other recreational event conducted by the Parks and Wildlife Department.

SECTION 2.09. Section 47.05(b), *Penal Code*, is amended to read as follows:

(b) It is an exception to the application of Subsection (a) that the information com-

municated is intended for use in placing a lawful wager under *Chapter 2027, Occupations Code* [~~Article 11, Texas Racing Act (Article 179c, Vernon's Texas Civil Statutes)~~], and is not communicated in violation of Section 2033.013, *Occupations Code* [~~14.01 of that Act~~].

SECTION 2.10. Section 47.09(a), Penal Code, is amended to read as follows:

(a) It is a defense to prosecution under this chapter that the conduct:

(1) was authorized under:

(A) Chapter 2001, Occupations Code;

(B) Chapter 2002, Occupations Code;

(C) Chapter 2004, Occupations Code; or

(D) *Subtitle A-1, Title 13, Occupations Code* ([the] Texas Racing Act [~~Article 179c, Vernon's Texas Civil Statutes~~]);

(2) consisted entirely of participation in the state lottery authorized by Chapter 466, Government Code; or

(3) was a necessary incident to the operation of the state lottery and was directly or indirectly authorized by:

(A) Chapter 466, Government Code;

(B) the lottery division of the Texas Lottery Commission;

(C) the Texas Lottery Commission; or

(D) the director of the lottery division of the Texas Lottery Commission.

SECTION 2.11. Section 11.23(h), Tax Code, is amended to read as follows:

(h) County Fair Associations. A county fair association organized to hold agricultural fairs and encourage agricultural pursuits is entitled to an exemption from taxation of the land and buildings that it owns and uses to hold agricultural fairs. An association that holds a license issued after January 1, 2001, under *Subtitle A-1, Title 13, Occupations Code* ([the] Texas Racing Act [~~Article 179c, Vernon's Texas Civil Statutes~~]), to conduct a horse race meeting or a greyhound race meeting with pari-mutuel wagering is not entitled to an exemption under this subsection. Land or a building used to conduct a horse race meeting or a greyhound race meeting with pari-mutuel wagering under a license issued after January 1, 2001, under that subtitle [Act] may not be exempted under this subsection. To qualify for an exemption under this subsection, a county fair association must:

(1) be a nonprofit corporation governed by Chapter 22, *Business Organizations Code* [~~as defined by the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes)~~];

(2) be exempt from federal income taxes as an organization described by Section 501(c)(3), (4), or (5), Internal Revenue Code of 1986[~~, as amended~~];

(3) qualify for an exemption from the franchise tax under Section 171.060; and

(4) meet the requirements of a charitable organization provided by Sections 11.18(e) and (f), for which purpose the functions for which the association is organized are considered to be charitable functions.

SECTION 2.12. Section 151.0035, Tax Code, is amended to read as follows:

Sec. 151.0035. "DATA PROCESSING SERVICE". "Data processing service" includes word processing, data entry, data retrieval, data search, information compilation, payroll and business accounting data production, the performance of a totalisator service with the use of computational equipment required by *Subtitle A-1, Title 13, Occupations Code* ([the] Texas Racing Act [~~Article 179c, Vernon's Texas Civil Statutes~~]), and other computerized data and information storage or manipulation. "Data processing service" also includes the use of a computer or computer time for data processing whether the processing is performed by the provider of the computer or computer time or by the purchaser or other beneficiary of the service. "Data processing service" does not include

the transcription of medical dictation by a medical transcriptionist. "Data storage," as used in this section, does not include a classified advertisement, banner advertisement, vertical advertisement, or link when the item is displayed on an Internet website owned by another person.

ARTICLE 3. REPEALER

SECTION 3.01. The following provisions of the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are repealed:

- (1) Articles 1, 2, 3, 4, 5, 7, 8, 9, 9A, 10, 11, 12, 13, 14, 15, 16, and 18; and
- (2) Sections 6.01, 6.02, 6.03, 6.031, 6.032, 6.04, 6.06, 6.0601, 6.0602, 6.0603, 6.061, 6.062, 6.063, 6.07, 6.08, 6.09, 6.091, 6.092, 6.093, 6.10, 6.11, 6.12, 6.13, 6.14, 6.15, 6.16, 6.17, and 6.18.

ARTICLE 4. GENERAL MATTERS

SECTION 4.01. This Act is enacted under Section 43, Article III, Texas Constitution. This Act is intended as a recodification only, and no substantive change in law is intended by this Act.

SECTION 4.02. This Act takes effect April 1, 2019.

Passed the Senate on April 19, 2017: Yeas 31, Nays 0; passed the House on May 24, 2017: Yeas 146, Nays 0, two present not voting.

Approved June 15, 2017.

Effective April 1, 2019.

ERECTING OR MAINTAINING CERTAIN OUTDOOR SIGNS REGULATED BY THE TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 964

S.B. No. 2006

AN ACT

relating to erecting or maintaining certain outdoor signs regulated by the Texas Department of Transportation.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 201.931(2), Transportation Code, is amended to read as follows:

(2) "License" means a license or permit for a *commercial sign* ~~[outdoor advertising]~~ issued under Chapter 391 or for an off-premise sign issued under Chapter 394.

SECTION 2. Section 391.001, Transportation Code, is amended by adding Subdivisions (1-a) and (11-a) to read as follows:

(1-a) "Commercial sign" means a sign that is:

(A) intended to be leased, or for which payment of any type is intended to be or is received, for the display of any good, service, brand, slogan, message, product, or company, except that the term does not include a sign that is leased to a business entity and located on the same property on which the business is located; or

(B) located on property owned or leased for the primary purpose of displaying a sign.

(11-a) "Sign" means any structure, display, light, device, figure, painting, drawing, message, plaque, placard, poster, billboard, logo, or symbol that is designed, intended, or used to advertise or inform.

SECTION 3. Section 391.002(b), Transportation Code, is amended to read as follows: